

LESSONS FROM THE MUELLER REPORT,
PART II: BIPARTISAN PERSPECTIVES

HEARING
BEFORE THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

JUNE 20, 2019

Serial No. 116-28

Printed for the use of the Committee on the Judiciary



Available <http://judiciary.house.gov> or www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

WASHINGTON : 2019

COMMITTEE ON THE JUDICIARY

JERROLD NADLER, New York, *Chairman*

ZOE LOFGREN, California	DOUG COLLINS, Georgia,
SHEILA JACKSON LEE, Texas	<i>Ranking Member</i>
STEVE COHEN, Tennessee	F. JAMES SENSENBRENNER, JR.
HENRY C. "HANK" JOHNSON, JR., Georgia	Wisconsin
THEODORE E. DEUTCH, Florida	STEVE CHABOT, Ohio
KAREN BASS, California	LOUIE GOHMERT, Texas
CEDRIC L. RICHMOND, Louisiana	JIM JORDAN, Ohio
HAKEEM S. JEFFRIES, New York	KEN BUCK, Colorado
DAVID N. CICILLINE, Rhode Island	JOHN RATCLIFFE, Texas
ERIC SWALWELL, California	MARTHA ROBY, Alabama
TED LIEU, California	MATT GAETZ, Florida
JAMIE RASKIN, Maryland	MIKE JOHNSON, Louisiana
PRAMILA JAYAPAL, Washington	ANDY BIGGS, Arizona
VAL BUTLER DEMINGS, Florida	TOM McCLINTOCK, California
J. LUIS CORREA, California	DEBBIE LESKO, Arizona
MARY GAY SCANLON, Pennsylvania,	GUY RESCHENTHALER, Pennsylvania
<i>Vice-Chair</i>	BEN CLINE, Virginia
SYLVIA R. GARCIA, Texas	KELLY ARMSTRONG, North Dakota
JOE NEGUSE, Colorado	W. GREGORY STEUBE, Florida
LUCY McBATH, Georgia	
GREG STANTON, Arizona	
MADELEINE DEAN, Pennsylvania	
DEBBIE MUCARSEL-POWELL, Florida	
VERONICA ESCOBAR, Texas	

PERRY APELBAUM, *Majority Staff Director & Chief Counsel*
BRENDAN BELAIR, *Minority Staff Director*

CONTENTS

OCTOBER 30, 2019

OPENING STATEMENTS

	Page
The Honorable Jerrold Nadler, Chairman, Committee on the Judiciary	1
The Honorable Doug Collins, Ranking Member, Committee on the Judiciary ..	3

WITNESSES

Carrie Cordero, Robert M. Gates Senior Fellow and General Counsel, Center for a New American Security	
Oral Testimony	7
Prepared Testimony	10
Richard Hasen, Chancellor's Professor of Law and Political Science, The University of California, Irvine School of Law	
Oral Testimony	21
Prepared Testimony	23
Alina Polyakova, Director, Project on Global Democracy and Emerging Technology, and Fellow—Foreign Policy, Center on the United States and Europe, Brookings Institute	
Oral Testimony	31
Prepared Testimony	34
Saikrishna Prakash, James Monroe Distinguished Professor of Law and Paul G. Mahoney Research Professor of Law, University of Virginia School of Law	
Oral Testimony	38
Prepared Testimony	41

LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING

A The Hill article titled “Key Figure That Mueller Report Linked to Russia was a State Department Intel Source” submitted by the Honorable Matt Gaetz, a Member of Congress from the State of Florida, Committee on the Judiciary	93
A The Hill article titled “Webb: President Trump is Right” submitted by the Honorable Andy Biggs, a Member of Congress from the State of Arizona, Committee on the Judiciary	101
Tweets submitted by the Honorable Doug Collins, Ranking Member, Committee on the Judiciary	109

APPENDIX

An American Greatness article titled “No Outrage Over Democrat Ties to Foreign Election Interference” submitted by the Honorable Andy Biggs, a Member of Congress from the State of Arizona, Committee on the Judiciary	138
A statement submitted by the Honorable Sheila Jackson Lee, a Member of Congress from the State of Texas, Committee on the Judiciary	142
A Newsweek article titled “Ex-GOP Federal Prosecutors Explain How Trump Obstructed Justice in Viral Video: ‘Absolute Disregard For the Law’” submitted by the Honorable Sheila Jackson Lee, a Member of Congress from the State of Texas, Committee on the Judiciary	146

	Page
A New York Times article titled “Mueller Zeros in on Story Put Together About Trump Tower Meeting” submitted by the Honorable Sheila Jackson Lee, a Member of Congress from the State of Texas, Committee on the Judiciary	149
A New York Times article titled “Hope Hicks Acknowledges She Sometimes Tells White Lies for Trump” submitted by the Honorable Sheila Jackson Lee, a Member of Congress from the State of Texas, Committee on the Judiciary	155
H.R. 2353, the “Duty to Refuse and Report Foreign Interference in American Elections Act of 2019” submitted by the Honorable Sheila Jackson Lee, a Member of Congress from the State of Texas, Committee on the Judiciary	157

LESSONS FROM THE MUELLER REPORT, PART II: BIPARTISAN PERSPECTIVES

THURSDAY, JUNE 20, 2019

HOUSE OF REPRESENTATIVES

COMMITTEE ON THE JUDICIARY

Washington, DC.

The committee met, pursuant to call, at 10:13 a.m., in Room 2141 Rayburn House Office Building, Hon. Jerrold Nadler [chairman of the committee] presiding.

Present: Representatives Nadler, Lofgren, Jackson Lee, Cohen, Johnson of Georgia, Deutch, Bass, Richmond, Jeffries, Cicilline, Lieu, Raskin, Jayapal, Demings, Correa, Scanlon, Garcia, Neguse, McBath, Stanton, Dean, Mucarsel-Powell, Escobar, Collins, Chabot, Gohmert, Jordan, Buck, Ratcliffe, Roby, Gaetz, Johnson of Louisiana, Biggs, McClintock, Lesko, Reschenthaler, Cline, Armstrong, and Steube.

Staff Present: Arya Hariharan, Deputy Chief Oversight Counsel; David Greengrass, Senior Counsel; John Doty, Senior Advisor; Madeline Strasser, Chief Clerk; Susan Jansen, Parliamentarian/Senior Counsel; Sophie Brill, Counsel, Subcommittee on the Constitution, Civil Rights and Civil Liberties; Rachel Calanni, Professional Staff Member, Subcommittee on Immigration and Citizenship; Brendan Belair, Minority Staff Director; Bobby Parmiter, Minority Deputy Staff Director/Chief Counsel; Jon Ferro, Minority Parliamentarian/General Counsel; Carlton Davis, Minority Chief Oversight Counsel; Ashley Callen, Minority Oversight Counsel; Danny Johnson, Minority Oversight Counsel; Jake Greenberg, Minority Oversight Counsel; and Erica Barker, Minority Chief Legislative Clerk.

Chairman NADLER. The Judiciary Committee will come to order. Without objection, the chair is authorized to declare recesses of the committee at any time.

We welcome everyone to today's hearing on "Lessons from the Mueller Report, Part II: Bipartisan Perspectives." I will now recognize myself for an opening statement.

Last week we heard from two former United States attorneys who exhaustively described President Trump's repeated efforts to undermine Special Counsel Mueller's investigation of Russia's interference in the 2016 elections. We also heard from President Nixon's former White House counsel who told us that the actions by this administration were substantially similar to the measures the

Nixon administration took to undermine the Watergate investigation.

But there is one important difference. Special Counsel Mueller was investigating a different kind of break-in. The target, a political campaign, was similar to that in Watergate, but the burglar was a hostile foreign nation. The crime was carried out through a hacking operation that stole hundreds of thousands of documents rather than the contents of a single safe, and the hacked documents were used extensively to affect the outcome of the election.

Today's hearing will focus on Special Counsel Mueller's investigation of what Russia did to our democracy in 2016, and then what Russia is still trying to do to our democracy today. This is the second in a series of hearings designed to unpack the findings of Special Counsel Mueller's report so that we can discuss its implications, craft legislation, and make other recommendations to the House, as necessary.

We have called this a hearing for bipartisan perspectives, not only to reflect the makeup of our witness panel, but because there should be broad consensus across the political spectrum that we cannot allow foreign nations to interfere in our democratic self-government.

There should also be broad consensus that if a political candidate accepts help from a foreign nation, and even welcomes this attack on our democracy, that candidate has fundamentally betrayed the very institutions that he or she must swear an oath to protect.

To be clear, the question before us is not merely whether campaign officials commit a crime when they take a meeting with foreign officials to discuss, quote, "dirt on an opponent," or whether Federal law prohibits the candidate from publicly encouraging hacking operations from a foreign adversary. The question before us comes down to what we as American citizens are willing to accept from our leaders.

Nearly 2 years ago, FBI Director Christopher Wray announced that the FBI was setting up a Foreign Influence Task Force designed to combat, quote, "foreign influence operations," close quote, including, quote, "covert actions by foreign governments to influence U.S. political sentiment," close quote.

The FBI explained that the goal of these influence operations is to spread disinformation, sow discord, and ultimately undermine confidence in our democratic institutions and values.

I cannot imagine that a single member of this committee would disagree that these operations are poisonous to our democracy and must be disrupted and dismantled to the fullest extent of the law.

In fact, at our hearing last week, I was struck by a common theme in the remarks of some of our Republican colleagues. They acknowledged that we were attacked by a foreign adversary. They acknowledged that our election systems are not secure. They acknowledged that Congress must respond to these threats without delay. But then they urged us to stop talking about the findings in the Mueller report.

Unfortunately, we cannot simply forget that the President's 2016 election campaign encouraged Russia's actions, both privately and publicly. Our Nation's intelligence officials have made clear that

Russia may do the very same things in the next election, or perhaps worse. Other hostile adversaries may try as well.

Last week, to the alarm of Americans across the political spectrum, and likely to the alarm of the men and women in the law enforcement and intelligence communities who are working to prevent these attacks, President Trump stated in an interview that he would be willing to accept information about a political opponent from a foreign adversary such as Russia or China.

First, when asked whether political candidates who are approached by foreign governments with this kind of information should call the FBI, President Trump responded, quote, “You don’t call the FBI, give me a break,” close quote. When informed that, quote, “The FBI Director says that that’s what should happen,” close quote, he responded, “The FBI Director is wrong.”

The next question was not confusing. President Trump was asked what his campaign would do if a foreign adversary like Russia or China, quote, “offers you information on an opponent.” He was asked, quote, “Should they accept it or should they call the FBI?” The President responded that maybe you do both, and went on to state, “I think I’d want to hear it,” and, “They have information, I think I’d take it.”

In fact, this time around the situation is even more alarming. President Trump was a private citizen during the 2016 campaign. He now sits at the head of all of our Nation’s intelligence and law enforcement agencies. He is provided with our Nation’s most sensitive secrets on a daily basis. He has sworn an oath to protect and defend the Constitution against all enemies, foreign and domestic.

But even with the benefit of all that guidance, and even with all of the authority and responsibility he has been granted, the President has said he is open to receiving information from a foreign adversary. In fact, by stating publicly that he would accept help from a foreign government, he may well have encouraged more foreign influence operations against our democracy.

We heard some relevant testimony about this in the Hicks interview yesterday, and we will be releasing that transcript soon.

The President’s willingness to again welcome prohibited foreign assistance, now with a full understanding that the law prohibits it, is indeed shocking.

The President may be willing to discard the lessons of the Mueller report, but we are not. With the 2020 election looming, we must act immediately to respond to the ongoing foreign threats we face, as well as to the President’s apparent willingness to accept them.

I look forward to today’s critical discussion, and to learning every lesson we can so that this very recent, sorry history does not repeat itself.

It is now my pleasure to recognize the ranking member of the Judiciary Committee, the gentleman from Georgia, Mr. Collins, for his opening statement.

Mr. COLLINS. Thank you, Mr. Chairman.

You know, the title of the hearing, as you have stated, is “Lessons From the Mueller Report, Part II: Bipartisan Perspectives.” I think we will have our chance to hear this statement.

I do have a concern that I want to bring up at the beginning, and this is a procedural issue.

The chairman has every right to have the hearing. I am glad that he actually has listened to us that the affirmative finding out of the Mueller report was foreign interference, and we would like to talk about that.

But yet when our side was asked—or we were asked what is the hearing schedule for this week, we were told we were going to get another rerun of obstruction. In fact, that was as late as of Monday night at 9 o'clock, we were told that this was going to be all about last week again and obstruction.

Which, you know, look, it is up to the chairman to do whatever he wants to do and we respect that, but to actually have a good representation so that we can get appropriate witnesses and work with that, our witness is going to be—we are very happy to have him here. But it is something that we were caught unawares about, and I think it is something that if we can go forward, at least a knowledgeable heads-up would affect all, because I think foreign interference in election systems are things that we need to discuss, and we have talked about that with bills that are out there. But it should come up in a hearing in which we actually have asked for it. And you are not going to allow us to forget the rest of it, so don't worry about that, I am sure.

As we go forward today, though, the special counsel finished his investigation, found no Americans, no one on the Trump campaign conspired or coordinated with the Russians. That was great news for America, and I thought it would be actually great news to all Americans. To my surprise—and really not really surprised—it wasn't.

Democrats are not only disappointed, they are angry. Angry that the President was not a Russian asset, it seems. Imagine disliking a President so much that you wished he were a foreign agent. That is where the other party is today.

Despite the conclusions the Mueller report came to, Democrats have spent the past few months trying to desperately revive their Russian conspiracy theory. The Democrats spent 2 years calling the Mueller team the best of the best, but since they didn't like the outcome, Democrats now have to play prosecutor and redo the Mueller investigation.

They launched their Mueller do-over when the chairman sent a document request to 81 individuals and entities connected to the President. We will call that the 81 investigation, as I call it. It was quickly abandoned in favor of Plan B.

Plan B was Democrats manufacture a fight with the Attorney General. They issued a subpoena directing the Attorney General to violate the law by producing grand jury materials to Congress. Unsurprisingly, the Attorney General declined to break the law.

Rather than engage in a traditional accommodation process, the chairman held the Attorney General in contempt in record time on flimsy grounds. Even their own witnesses admitted the subpoena was asking for illegal things.

Did the chairman learn from this experience? No. The Democrats overplayed their hand again with Plan C when they subpoenaed testimony and documents from former White House Counsel Don

McGahn. The Democrats subpoenaed McGahn knowing every President since at least the 1970s, including Presidents Clinton and Obama, claimed immunity over congressional testimony from close Presidential advisers. The Trump administration, like Clinton and Obama, claimed immunity over McGahn's testimony and McGahn did not appear.

When Plans A through C failed to accomplish anything of substance, we decided to go in for the heavy artillery for Plan D. What was Plan D? Was it Mueller himself? No. That would have made too much sense. Was it a pivot to focus on the actual findings of wrongdoing in the Mueller report related to foreign election interference? No, that would have been productive.

How do we focus on real issues facing America with the border crisis we don't do? No, that would have been too compassionate. Instead, Plan D was John Dean. Yes, the convicted felon from the Watergate scandal who spent 40 years telling everyone who will pay him that anything that walks is worse—that anything he did was and anything that happens now is worse than Watergate.

The Columbia Journalism Review ran the headline, "Democrat's John Dean hearing is a flop." Washington Post columnist Karen Tumulty—no friend of the Trump administration, by the way—said, "Perhaps the best thing that could be said about the hearing was that no one repeated a stunt quite like the one that we saw Representative Cohen pulled last month in that same room when he ate from a bucket of chicken."

The fact that Democrats believe the American public would be energized by John Dean, who has done nothing relevant since the 1970s, shows how desperate and out of touch they became. And that desperation actually showed last week when after the Dean hearing bombed and at least one member of the committee scolded MSNBC for ignoring the Dean hearing, not showing it enough.

I hoped the John Dean hearing was an end to the circus. But because no matter how many times we relive the findings of the report, the conclusions will not magically change.

Instead, we are ignoring more pressing issues. But as I said last week, our actions expose our real priorities. So what hearing did we include for this week? "Mueller Report, Part II: Bipartisan Perspectives." Well, we know that we are here to discuss.

Given the majority's action in preparing for this hearing and the notice that we were given, I fear that once again we were turning this committee into another circus. The Attorney General made the Mueller report public 2 months ago, we can all read it for ourselves, we have had some wonderful dramatic readings in here over the past week or two, and even yesterday in the Hicks interview, and we all know what it says: The lesson of the Mueller report is no conspiracy.

Well, as everyone in my generation growing up, they realized that the summer season was after all the shows had run the whole season, it was time for reruns. Well, tomorrow is the official start of summer, it is time for rerun season. Yesterday's episode was Hope Hicks. Today's episode is before us.

So with that, Mr. Chairman, without further ado, let the show begin.

Chairman NADLER. Thank you, Mr. Collins.

I will now introduce today's witnesses.

Carrie Cordero is the Robert Gates Senior Fellow and general counsel at the Center for New American Security and an adjunct professor of law at Georgetown University. She is also the co-founder of Checks and Balances, an organization of conservative and libertarian lawyers dedicated to core constitutional principles and the rule of law. Ms. Cordero received her bachelor's degree from Columbia University and her J.D. from American University.

Richard Hasen is Chancellor's Professor of Law and Political Science at the University of California, Irvine School of Law. From 2001 to 2010, Professor Hasen served as founding co-editor of the quarterly peer-reviewed publication Election Law Journal. He has authored more than 100 articles on election law issues. Professor Hasen received his bachelor's degree from the University of California, Berkeley and his J.D., M.A., and Ph.D. from UCLA.

Alina Polyakova is the director of the Project on Global Democracy and Emerging Technology and a fellow in the Foreign Policy Program's Center on the United States and Europe and Security Strategy Team at the Brookings Institution. She is also an adjunct professor of European studies at the Paul Nitze School of Advanced International Studies at Johns Hopkins University. Dr. Polyakova received her bachelor's degree from Emory University and her doctorate from the University of California at Berkeley.

Saikrishna Prakash is a James Monroe Distinguished Professor of Law and a Paul G. Mahoney Research Professor of Law at the University of Virginia School of Law. Before becoming a professor, Mr. Prakash clerked for Judge Laurence Silberman of the U.S. Court of Appeals for the District of Columbia Circuit and for Supreme Court Justice Clarence Thomas. He received his bachelor's degree from Stanford University and his J.D. from Yale Law School.

We welcome our distinguished witnesses, and we thank you for participating in today's hearing. Now, if you would please rise, I will begin by swearing you in. Raise your right hands.

Do you swear or affirm under penalty of perjury that the testimony you are about to give is true and correct to the best of your knowledge, information, and belief, so help you God?

Thank you.

Let the record show the witnesses answered in the affirmative.

Thank you.

Please note that your written testimony will be entered into the record in its entirety. Accordingly, I ask that you summarize your testimony in 5 minutes. To help you stay within that time there is a timing light on your table. When the light switches from green to yellow, you have 1 minute to conclude your testimony. When the light turns red, it signals your 5 minutes have expired.

Ms. Cordero, you may begin.

TESTIMONY OF CARRIE CORDERO, ROBERT M. GATES SENIOR FELLOW AND GENERAL COUNSEL, CENTER FOR A NEW AMERICAN SECURITY; RICHARD HASEN, CHANCELLOR'S PROFESSOR OF LAW AND POLITICAL SCIENCE, THE UNIVERSITY OF CALIFORNIA, IRVINE SCHOOL OF LAW; ALINA POLYAKOVA, DIRECTOR, PROJECT ON GLOBAL DEMOCRACY AND EMERGING TECHNOLOGY, AND FELLOW—FOREIGN POLICY, CENTER ON THE UNITED STATES AND EUROPE, BROOKINGS INSTITUTION; AND SAIKRISHNA PRAKASH, JAMES MONROE DISTINGUISHED PROFESSOR OF LAW AND PAUL G. MAHONEY RESEARCH PROFESSOR OF LAW, UNIVERSITY OF VIRGINIA SCHOOL OF LAW

TESTIMONY OF CARRIE CORDERO

Ms. CORDERO. Thank you, Mr. Chairman, Mr. Ranking Member, members of the committee. Thank you for inviting me here today to support the committee's efforts to bring greater public awareness to the information in Special Counsel Mueller's report.

The written statement I have submitted focuses on the national security aspects in Volume I of the report, including the special counsel's exposure of a sustained, systematic intelligence operation by the Government of Russia to interfere in the 2016 election, why foreign influence matters, and lessons we can draw from the report. My written statement also discusses how the chain of events surrounding the report's release negatively affected public understanding of the report's facts and findings.

The Russian Government's activities to influence the 2016 Presidential campaign was a foreign intelligence operation involving two main efforts.

The first was a social media operation intended to influence American public opinion. The effort was successful in reaching millions of Americans through social media engagement, false online personas, and ad purchases.

The second part involved computer hacking to steal and then release information from the Democratic Party campaign apparatus.

There was a corollary to the social media operation which often gets overlooked. Russian online operatives caused real unsuspecting Americans to gather for political purposes, pretending to be grassroots activists.

These operatives made virtual contact with and interacted with Trump campaign supporters and campaign officials. They organized rallies, including pro-Trump rallies in New York, Florida, and Pennsylvania.

The Russians released hacked stolen information in two ways, through fake online personas—DCLeaks and Guccifer 2.0—and through a surrogate—WikiLeaks.

As discussed in my written statement, much of the information regarding WikiLeaks is redacted in the report, and given the harm that WikiLeaks has caused U.S. national security for approximately a decade, we should all be able to agree that regardless of meeting a criminal standard for prosecution, it is unacceptable, indeed disqualifying, for a U.S. political campaign to willingly accept information and consider crafting a public relations strategy around leaked information from WikiLeaks or any similar organi-

zation that, in the words of Secretary Pompeo when he was the CIA Director, quote, “walks like a hostile intelligence service and talks like a hostile intelligence service.”

These Russian activities to influence U.S. democratic institutions and pit Americans against each other are ongoing.

Foreign influence, when conducted behind the scenes, clouds the policy debate and impacts decisions about Americans while crowding out the voice of Americans. Foreign intelligence services conducting their activities abroad know they are violating the domestic law of the country they target, but they don’t care.

Setting aside legality for a moment, it simply cannot be that it is acceptable for an American political campaign to accept foreign assistance in order to win an election.

We have not done a good enough job explaining to the American public why foreign influence matters. If we allow foreign interests to invade our thinking regarding our choice of candidates, to invade our media outlets through releasing stolen information without understanding where it is coming from, and to possibly invade our voter registration and election infrastructure, we are not making decisions for ourselves.

We cannot allow foreign interests to influence how Americans look at each other, how we speak to each other, how we interact with each other online. Foreign involvement in our elections undermines our democracy.

Members of Congress have a duty to ensure that the government is protecting Americans from foreign influence. We are only 18 months away from the next election. My written statement includes examples of the types of legislative steps that Congress can take.

On the leadership front, however, the duty is rooted in Members’ oath of office and allegiance to the Constitution. The evidence in Volume I of the special counsel’s report, in addition to recent public statements made by the President and his most senior advisers, cannot be ignored.

One cannot faithfully defend the Constitution and be open to receiving foreign assistance to win an election at the same time and take actions to actively thwart the Federal investigation into those foreign influence efforts. The oath and those acts are incompatible. They should be of grave concern to this body, which carries its own constitutional responsibilities. We cannot write off what transpired in 2016.

Right now, today, there is no whole-of-government strategy to counter foreign influence in elections, no Presidential leadership to secure our elections, no legislation passed by Congress to address election security or foreign influence. Instead, we have deflection and apathy and inaction.

We cannot ignore the information in the special counsel’s report. We cannot not care. We have to care and we have to act. We have to raise our expectations.

Protecting Americans from foreign interference in our democracy needs to begin here. Protecting our constitutional system of checks and balances needs to begin here. Protecting our shared values, our free elections, and our American interests needs to begin here.

Thank you.

[The testimony of Ms. Cordero follows:]



Center for a
New American
Security

June 20, 2019

**Statement for the Record before the Committee on the Judiciary,
United States House of Representatives, on Lessons from the Mueller
Report**

Carrie Cordero, Robert M. Gates Senior Fellow, Center for a New American Security

Chairman Nadler, Ranking Member Collins, Members of the Committee, thank you for inviting me here today to support the committee's efforts to bring greater public awareness to the factual information and findings contained in Special Counsel Robert S. Mueller III's *Report on the Investigation Into Russian Interference in the 2016 Presidential Election*.¹ The report covers the Special Counsel's investigation into Russian interference in the 2016 election, its investigation regarding any connections between the Russian government and Trump 2016 campaign, and related matters, including but not limited to potentially obstructive acts related to the Special Counsel's investigation itself.

In addition to some preliminary observations about the release and scope of the report, this statement and my testimony today will focus primarily on the significance to our national security and democratic institutions the activities described in Volume I of the report, in particular:

- The Special Counsel's exposure of a sustained, systematic intelligence operation by the government of Russia to interfere in the 2016 election;
- Lessons we can draw from the report to ensure that foreign interference in our democratic institutions can be looked back on as an aberration, and not an accepted part of American elections and public discourse going forward; and
- The report's description of the conduct by Trump campaign officials in 2016 with respect to their willingness to accept Russian-government sponsored offers of assistance, and the imperative that such activity not be repeated by any American political campaign.

As you know, I had no involvement in the Special Counsel's investigation or preparation of the report. The views I am here to express today are based on my own read of the report, accompanying correspondence between the Attorney General and Special Counsel, the Special Counsel's delivered remarks on May 29th, and related materials that are publicly available. My views are informed by my prior professional experience as a national security attorney at the Department of Justice and Office of Director of National Intelligence where I worked on counterintelligence and counterterrorism operational law and policy matters, and continued engagement since leaving public service through teaching, research, writing and speaking on the

¹ <https://www.justice.gov/storage/report.pdf>

Bold. Innovative. Bipartisan.

1152 15th Street NW
Suite 950
Washington, DC 20005

CNAS.org / @CNASdc
T: 202.457.9400
F: 202.457.9401

law and policy governing the intelligence community and U.S. national security. I am also a co-founder of Checks & Balances, an organization of conservative and libertarian lawyers dedicated to core constitutional principles and the rule of law; principles that are highly relevant to the Congress' consideration of the matters contained in the report.²

The Report's Release

Given that much of the Special Counsel's report is now public, one may question why hearings are necessary to explain what the report says, and why it is significant. First, at 448 pages, the report is long, and dense with investigative details and legal analysis. Most Americans do not have the time to spend reading the report cover to cover. Second, and more significantly, however, the early reporting and reaction to the report was skewed as a result of specific actions taken by the Attorney General. In short, even though, eventually, much of the report has been made publicly available (even if not required under the regulations), the early narrative regarding some of the report's main findings was not correct, and caused confusion among members of Congress, the general public, and informed observers alike.

The report was provided to the Attorney General on March 22, 2019. On that date, the Attorney General notified Congress that he had received the report. On March 24th, the Attorney General sent to Congress and publicly released a four-page letter purporting to describe the Special Counsel's principal conclusions. On March 25th, the Special Counsel sent the Attorney General a letter that enclosed introductions and executive summaries of each of the report's two volumes, prepared in a manner suitable for release.³ On March 27th, the Special Counsel wrote to the Attorney General stating that the Attorney General's March 24th letter "did not fully capture the context, nature and substance" of the Special Counsel's "work and conclusions."⁴ The Special Counsel further wrote that the Attorney General's March 24th letter had led to "public confusion about the critical aspects of the results" of the Special Counsel's investigation, which "threatens to undermine a central purpose for which the Department appointed the Special Counsel: to assure full public confidence in the outcome of the investigations." The Attorney General did not release the introduction and summaries prepared by the Special Counsel's office, nor did he release or reveal the existence of the Special Counsel's March 27th letter. Instead, the Attorney General released a redacted version of the report to Congress and the public on April 18th.⁵ The existence and substance of the Special Counsel's March 27th letter was not released until April 30th, on the eve of the Attorney General's testimony before the Senate Judiciary Committee on May 1st.

² The views expressed in this written statement and accompanying testimony are mine alone and should not be attributed to any employer, current or former, nor to any organization with which I am affiliated.

³ Letter from Robert S. Mueller to Attorney General William Barr, March 27, 2019, <https://apps.npr.org/documents/document.html?id=5984399-Mueller-Letter-to-Barr>.

⁴ Letter from Robert S. Mueller to Attorney General William Barr, March 27, 2019, <https://apps.npr.org/documents/document.html?id=5984399-Mueller-Letter-to-Barr>.

⁵ Statement of Attorney General William Barr, <https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-remarks-release-report-investigation-russian>.



This chain of events left the public with an initial impression of the report's work and findings between March 24th and April 18th that was not accurate. Informed observers wondered out loud why the Special Counsel did not make a prosecutorial recommendation on obstruction. The Attorney General's March 24th letter left a reader with the impression that the most likely explanation was that the Special Counsel's office was unable to formulate a prosecutorial recommendation based on the sufficiency of the available evidence, and the applicability of that evidence against the elements of obstruction.

That turned out not to be the case. Volume II of the report explains that the reason the Special Counsel did not make a prosecutorial recommendation as to whether the president's conduct satisfied the elements of obstruction was because it assessed it could not lawfully do so under pre-existing Department of Justice legal opinion that a sitting president cannot be indicted.⁶ Moreover, the Special Counsel assessed that the doctrine of fairness precluded accusing one of a crime who will not have the opportunity to defend against that charge in a trial setting. As a result, the Special Counsel did not attempt to determine whether a prosecutable case against the president was feasible. The report states:

[I]f we had confidence after a thorough investigation of the facts that the President clearly did not commit obstruction of justice, we would so state. Based on the facts and the applicable legal standards, however, we are unable to reach that judgment. The evidence we obtained about the President's actions and intent presents difficult issues that prevent us from conclusively determining that no criminal conduct occurred. Accordingly, while this report does not conclude that the President committed a crime, it also does not exonerate him.⁷

Special Counsel Mueller repeated this in his prepared remarks delivered at the Justice Department on May 29th.⁸ In short, the Special Counsel's report does not exonerate the president of engaging in obstructive conduct; instead, it recites a pattern of potentially obstructive behavior intended to derail the FBI's and later the Special Counsel's investigation into Russian interference and related cases involving former administration, campaign and Trump organization official(s).⁹

The Special Counsel's report alone is not, in my judgement, a complete narrative of Russian interference in the 2016 election and related matters. A more complete narrative would require an assimilation of this report, the related indictments, pleading and sentencing documents; the forthcoming report of the Senate Select Committee on Intelligence (SSCI); congressional

⁶ Volume II at 1-2.

⁷ Volume II at 2.

⁸ Full Transcript of Mueller's Statement on Russia Investigation, May 29, 2019, <https://www.nytimes.com/2019/05/29/us/politics/mueller-transcript.html> ("[I]f we had had confidence that the president clearly did not commit a crime, we would have said so. We did not, however, make a determination as to whether the president did commit a crime.")

⁹ Volume II, at 3-7 (factual summaries of potentially obstructive acts investigated).



testimony before several committees of Congress related to this investigation; additional redacted, classified and investigative information; and information from foreign governments and foreign persons that is likely out of reach from American investigators. The Special Counsel's report on Russian interference in the 2016 election is not parallel to the 9/11 Commission Report, the authoritative accounting of the investigation into the September 11, 2001 attacks. This is not at all a criticism of the Special Counsel's report; instead, it is a recognition of the limitations that were placed on that office's mandate and scope of work as they were constituted under Department of Justice regulations.

The Russian Intelligence Operation to Affect the 2016 American Presidential Election

The Russian government's activities to influence the 2016 U.S. presidential campaign and election was a foreign intelligence operation. The Special Counsel's report states that it started as an information warfare operation intended to affect the election generally, and by 2016 was actively working to help Trump win.¹⁰ According to the report, the operation involved two main efforts. The first was a social media operation intended to influence Americans' public opinion. The effort was successful in reaching millions of Americans through social media engagement, false online personas, and ad buys, including those that "overtly opposed the Clinton Campaign."¹¹ According to the report:

[T]he IRA had the ability to reach millions of U.S. persons through their social media accounts.... Facebook estimated the IRA reached as many as 126 million persons through its Facebook accounts.... Twitter...notified approximately 1.4 million people Twitter believed may have been in contact with an IRA-controlled account.¹²

We still do not have a definitive understanding of the extent of the manipulation of U.S. technology platforms, however, as the companies that complied with the review conducted by the SSCI provided only snapshots of data of varying format and comprehensiveness.¹³ An independent review commissioned by the SSCI found that the Internet Research Agency (IRA) had created a "manipulation ecosystem" online.¹⁴

The second part of the influence campaign involved computer hacking to steal and then release information from the democratic campaign apparatus including the Hillary Clinton campaign, the Democratic National Committee, the Democratic Congressional Campaign Committee, and the

¹⁰ Volume I at 4, 14.

¹¹ Volume I at 25.

¹² Volume I at 14-15.

¹³ Philip N. Howard, Bharath Ganesh, Dimitra Liotsiou, John Kelly and Camille Francois, Computational Propaganda Research Project, "The IRA, Social Media and Political Polarization in the United States, 2012-2018" (Oxford-Graphika Report), (University of Oxford, 2018), 39, <https://comprop.ox.ac.uk/wp-content/uploads/sites/93/2018/12/The-IRA-Social-Media-and-Political-Polarization.pdf>.

¹⁴ Renee DiResta, Dr. Kris Shaffer, Becky Ruppel, David Sullivan, Robert Matney, Ryan Fox, Dr. Jonathan Albright and Ben Johnson, "The Tactics & Tropes of the Internet Research Agency," New Knowledge (December 17, 2018), 2, <https://www.newknowledge.com/articles/the-disinformation-report/>.



emails of campaign chairman John Podesta.¹⁵ There was arguably a third component, which the report discusses as part of the social media operation. This component often gets overlooked: Russian operatives caused real, unsuspecting Americans to organize rallies and gather for political purposes. The Russians pretended to be grassroots activists.¹⁶ These online operatives made contact with and interacted with Trump supporters and Trump campaign officials.¹⁷ Trump campaign officials “promoted dozens of tweets, posts and other political content created by the IRA.”¹⁸ The investigation “identified dozens of rallies organized by the IRA.”¹⁹ They organized pro-Trump rallies in New York, Florida and Pennsylvania.²⁰ Thus, the 2016 activities were a combination of social media engagement, criminal cyber intrusion and political organization on the ground in local American communities.

The hacking aspect of the Russian government operation released obtained information in two ways: through fake online personas and through a surrogate. The fake personas were DC Leaks and Guccifer 2.0, which were actually Russian agents posing as those online monikers.²¹ The surrogate was WikiLeaks.²² Russian operatives used these mechanisms to release material that was hacked and stolen, to communicate with reporters, to communicate with each other, and in some instances, to communicate with the Trump campaign. The WikiLeaks releases were unquestionably helpful to the Trump campaign and designed to hurt the Clinton campaign.²³ Victims of the Russian intelligence activities also “included U.S. state and local entities, such as state boards of elections (SBOEs), secretaries of state, and county governments, as well as individuals who worked for those entities.”²⁴

A key paragraph in the report that appears to contain more information regarding the Trump campaign’s understanding of WikiLeaks’ role is redacted, and I would encourage the committee to work with the Attorney General and intelligence community, as needed, to review this information, which is redacted because it is related to an ongoing matter.²⁵ Here is a screenshot of the relevant paragraph on p. 36 of Volume I:

¹⁵ Volume I at 4.

¹⁶ Volume I at 29.

¹⁷ Volume I at 4-5.

¹⁸ Volume I at 33.

¹⁹ Volume I at 29.

²⁰ Volume I at 31.

²¹ Volume I at 41.

²² WikiLeaks has long been revealed publicly to work against U.S. national security interests. There is a significant public interest in understanding WikiLeaks’ role vis a vis hostile intelligence agencies. See Carrie Cordero, “A Hard Transparency Choice: What is WikiLeaks,” Lawfare, April 5, 2018, <https://www.lawfareblog.com/hard-transparency-choice-what-wikileaks>.

²³ Volume I at 48 (“WikiLeaks released 33 tranches of stolen emails between October 7, 2016 and November 7, 2016” including 50,000 private emails of John Podesta.)

²⁴ Volume I at 50.

²⁵ None of the redactions in the report indicate one way or another whether they shield classified information; it is unclear, therefore, whether the information marked as redacted for “harm to ongoing matter” includes unclassified information, classified information or a combination of both depending on the specific redaction.



The Trump Campaign showed interest in the WikiLeaks releases and, in the summer and fall of 2016, Harm to Ongoing Matter

HOM After WikiLeaks's first Clinton-related release HOM, the Trump Campaign stayed in contact HOM about WikiLeaks's activities. The investigation was unable to resolve Harm to Ongoing Matter WikiLeaks's release of the stolen Podesta emails on October 7, 2016, the same day a video from years earlier was published of Trump using graphic language about women.

In fact, much of the information regarding the campaign's contacts with WikiLeaks is redacted.²⁶ Although it is impossible to verify given the redactions due to ongoing matters, the report appears to suggest that Manafort, the campaign chairman, communicated to Rick Gates, his deputy, that someone "wanted to be kept apprised of developments with WikiLeaks and separately told Gates to keep in touch with" that someone "about future WikiLeaks releases."²⁷

It is this section – the section pertaining to what the Trump campaign knew about WikiLeaks releases, that demonstrates the limits of the use of criminal laws to judge whether activity was "coordinated." The Special Counsel, to find "coordination" required there to be "an agreement – tacit or express – between the Trump Campaign and the Russian government on election interference."²⁸ But although short of that prosecutive standard, the report shows that the campaign at least wanted to know more about what was coming from WikiLeaks. Even more, the report states that, "[a]ccording to Gates, by the late summer of 2016, the Trump Campaign was planning a press strategy, a communications campaign, and messaging based on the possible release of Clinton emails by WikiLeaks."²⁹ Much of this section is redacted, and, should be a priority for Congress to explore.

Given the harm that WikiLeaks has caused U.S. national security for approximately a decade, we should all be able to agree that regardless of meeting a criminal standard for prosecution, it is unacceptable – indeed, disqualifying – for a U.S. political campaign to willingly accept information and intend to craft a public relations strategy around – leaked information from WikiLeaks, or any similar organization that, according to Secretary Pompeo when he was CIA Director, "walks like a hostile intelligence service and talks like a hostile intelligence service."³⁰

²⁶ Volume I at 51-59.

²⁷ Volume I at 54.

²⁸ Volume I at 2.

²⁹ Volume I at 54.

³⁰ Prepared remarks of Mike Pompeo, Director of the Central Intelligence Agency, at CSIS, April 13, 2017, <https://www.cia.gov/news-information/speeches-testimony/2017-speeches-testimony/pompeo-delivers-remarks-at-csis.html>.

Russian activities to influence U.S. electoral processes and pit Americans against each other are ongoing.³¹ The activities are not limited to the U.S.; Russia has engaged in active measures throughout Europe, as well.³² It is happening today. Every presidential campaign, every component of election infrastructure, every government leader with responsibilities to administer elections must understand and take action to address this threat.

Foreign Influence

Foreign influence is not a new concept to American public policy; it just seems that we need to be reminded of it. Just over 80 years ago Congress passed the Foreign Agents Registration Act (FARA) in order to combat Nazi propaganda that was infiltrating American institutions. Meanwhile, the Russians – and former Soviet Union – have been conducting propaganda operations and disinformation campaigns for decades.³³ FARA, the law in place to address foreign influence, was built on a registration process, requiring that those acting on behalf of foreign interests register with the Department of Justice so that Congress and the public would understand when someone was writing, speaking, or conducting advocacy, on whose behalf they were doing so. Foreign influence is not limited to elections. As Senator Grassley observed in a recent *Wall Street Journal* piece, foreign countries aggressively seek to exert influence through lobbying and other covert means.³⁴ Foreign influence – when conducted behind the scenes or covertly – clouds the policy debate and impacts decisions about Americans while crowding out the voice of Americans.

Similarly, campaign finance law prohibits foreign nationals from contributing or donating money or a thing of value in connection with an election, and prohibits a person to receive such a contribution or donation.³⁵ World War II era history also informed the need to prohibit foreign

³¹ Interview by Susan Hennessey with FBI Director Christopher Wray, RSA Conference, March 2019, (malign foreign influence campaign has continued “virtually unabated”) <https://www.rsaconference.com/events/us19/agenda/sessions/17824-The-FBI-At-the-Heart-of-Combating-Cyberthreats>.

³² See, e.g., Naja Bentzen, European Parliamentary Research Service, “Foreign influence operations in the EU,” July 2018, [http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/625123/EPRS_BRI\(2018\)625123_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/625123/EPRS_BRI(2018)625123_EN.pdf)

(“Moscow seeks to undermine unity, destabilise democracies and erode trust in democratic institutions”).

³³ Office of the Director of National Intelligence, Assessing Russian Activities and Intentions in Recent US Elections, January 6, 2017, https://www.dni.gov/files/documents/ICA_2017_01.pdf (“Russian efforts to influence the 2016 US presidential election represent the most recent expression of Moscow’s longstanding desire to undermine the US-led liberal democratic order, but these activities demonstrated a significant escalation in directness, level of activity, and scope of effort compared to previous operations”); PBS Newshour, “The long history of Russian disinformation targeting the U.S.,” November 21, 2018, <https://www.pbs.org/newshour/show/the-long-history-of-russian-disinformation-targeting-the-u-s>.

³⁴ Chuck Grassley, The Foreign Influence We’re Ignoring,” *Wall Street Journal*, June 9, 2019, <https://www.wsj.com/articles/the-foreign-influence-were-ignoring-11560108892>.

³⁵ 52 U.S. Code § 30121.



money in U.S. political campaigns.³⁶ But the campaign finance laws have limits in terms of their ability to prevent or even hold accountable benefits received as a result of a foreign intelligence activity. Again, updates can and should be made – such as bolstering reporting requirements or expanding the categories of assistance – but updating these laws will never be able to account for all the types of activity a hostile foreign service might engage in to affect an election. Currently, as the Special Counsel notes, opposition research “could constitute a contribution to which the foreign-source ban could apply[;]” but “no judicial decision has treated the voluntary provision of uncompensated opposition research or similar information as a thing of value that could amount to a contribution under campaign-finance law.”³⁷

Modifications to laws alone will not fully address the covert activities of a hostile foreign intelligence service. Foreign intelligence services conducting their activities abroad know they are violating the domestic law of the country they target; they are not necessarily dissuaded by the threat of accountability or civil liability or criminal justice. Which is why setting aside legality for a moment, it simply cannot be that it is acceptable for an American political campaign to accept foreign assistance in order to win an election.

We have not done a good enough job explaining to the American public *why* foreign influence matters: If we allow foreign interests to invade our thinking regarding our choice of candidates, to invade our media outlets through releasing stolen information without understanding where it is coming from, and to possibly invade our voter registration and other election infrastructure systems, we are not making decisions for ourselves. If we allow foreign countries’ leaders, whose interests are not necessarily aligned and in the case of Russia, specifically, has geopolitical interests adverse to ours, to influence how Americans look at each other, how we speak to each other, how we interact with each other online, we succumb to others’ interest, not our own. Wise leaders have warned of foreign influence since the birth of the republic.³⁸ Foreign involvement in our elections undermines our democracy.

What are our interests? Simply put, our interests are our security, our freedom and our values. They are ours, grounded in the Constitution, lived daily in our lives. Our constitutional principles assure us individual liberty, a free press, freedom from intrusive government activities, and equal protection under the law. When a foreign nation – with interests adverse to ours – seeks to interfere in our most fundamental exercise of our democratic system – our elections – they are trying to impose their influence over our society. This is why we need to openly, clearly, aggressively reject foreign interference in our campaigns and elections and in our democratic institutions.

³⁶ “How Nazis Tried to Steer U.S. Politics,” New York Times, July 23, 1997, <https://www.nytimes.com/1997/07/23/us/how-nazis-tried-to-steer-us-politics.html>.

³⁷ Volume I at 187.

³⁸ George Washington’s Farewell Address, 1796, (“history and experience prove that foreign influence is one of the most baneful foes of republican government”), https://avalon.law.yale.edu/18th_century/washing.asp.



The Russian government influence activities were intended to sow discord in the United States and to weaken an adversary: us. The Russian government also was conducting outreach to the Trump campaign, while helping them through its influence campaign, to change U.S. foreign policy as it relates to Russia.³⁹

Foreign Influence in American Elections Cannot Be Allowed to Become the New Normal

Here is what the report said about the Trump 2016 campaign's openness to receiving foreign assistance:

Although the investigation established that the Russian government perceived it would benefit from a Trump presidency and worked to secure that outcome, and that the Campaign expected it would benefit electorally from information stolen and released through Russian efforts, the investigation did not establish that members of the Trump campaign conspired or coordinated with the Russian government in its election interference activities.⁴⁰

The Special Counsel applied the principles of conspiracy law – a criminal statute – in making its assessment of whether the campaign “conspired or coordinated.”⁴¹ The Special Counsel considered whether campaign officials could be charged under Department of Justice prosecutive guidelines with violating the FARA, campaign finance laws, and/or conspiracy. The Special Counsel's office determined that no U.S. person, including any members of the campaign, could be prosecuted for conspiracy to defraud the United States, the overarching theory of the case as it pertained to the Russian activities, or these other potential violations of law. The report outlines, however, the campaign's willingness to receive foreign assistance, and/or to be the beneficiary of foreign assistance. In short, there may not have been a criminal conspiracy, but there was certainly mutually reinforcing behavior.

An American presidential campaign should not be openly willing to receive assistance from a hostile foreign government, or any foreign government. Nor should a campaign, its leadership or its personnel actively thwart U.S. government efforts to uncover foreign influence. And yet, the Special Counsel describes how Trump 2016 campaign officials:

- Accepted a meeting with Russian government surrogates for the purpose of obtaining derogatory information on the candidate's political opponent;⁴²

³⁹ Volume I at 157 (“Dmitriev told Gerson that he had been tasked by Putin to develop and execute a reconciliation plan between the United States and Russia.”)

⁴⁰ Volume I at 5.

⁴¹ Volume I at 2.

⁴² Volume I at 110-120. As has been widely reported in the media, in response to an offer via email from publicist Rob Goldstone that the “crown prosecutor of Russia...offered to provide the Trump campaign with some official documents and information that would incriminate Hillary...[and] is obviously very high level and sensitive information but is part of Russia and its government support for Mr. Trump...” Donald Trump Jr. replied, “...if it's what you say I love it especially later in the summer” of 2016. Volume I at 113.



- Deleted or made otherwise unavailable evidence such as electronic communications;⁴³
- Refused to be interviewed by the Special Counsel⁴⁴ to assist in its investigation of Russian interference and related matters or lied to investigators when interviewed⁴⁵
- Sought to obtain what were believed to be deleted Clinton emails⁴⁶
- Pursued a financial opportunity that would have required Russian government approval (Trump Moscow) while running for president of the United States⁴⁷
- Provided internal campaign information, including polling data, to an individual the U.S. intelligence community assessed was linked to Russian intelligence⁴⁸

In addition, it is quite possible, if not likely given the timing, that candidate Trump's public statements encouraged Russian interference. The report:

On July 27, 2016, Unit 26165 targeted email accounts connected to candidate Clinton's personal office [redacted]. Earlier that day, candidate Trump made public statements that included the following: "Russia, if you're listening, I hope you're able to find the 30,000 emails that are missing."⁴⁹

The report continues:

Within approximately five hours of Trump's statement, GRU officers targeted for the first time Clinton's personal office....After candidate Trump's remarks Unit 26165 crated and sent malicious links targeting 15 email accounts....⁵⁰

Until that day, these particular accounts had not been targeted by the Russian operatives.⁵¹

Role of Congress

Members of Congress have a duty to ensure that the government is protecting Americans' from foreign influence. We are only eighteen months away from the next election. Congress must do more to protect our elections and democratic institutions from foreign interference. Congress'

⁴³ Volume I at 10, 155.

⁴⁴ Appendix C-2.

⁴⁵ Volume I at 191. The report stated, "[T]he investigation established that several individuals affiliated with the Trump campaign lied to the Office, and to Congress, about their interactions with Russian-affiliated individuals and related matters. Those lies materially impaired the investigation of Russian election interference." Volume I at 9.

⁴⁶ Volume I at 62.

⁴⁷ Volume I at 67-78. Nor should Americans be satisfied with a political candidate who views candidacy as an "infomercial" for family-owned-company-branded properties. Volume I at 72.

⁴⁸ Volume I at 136.

⁴⁹ Volume I at 49.

⁵⁰ Volume I at 49.

⁵¹ Volume I at 49.



role in this regard is one-part legislative and one-part leadership. Examples on the legislative front include but are not limited to:

- Election security legislation involving the administration of elections, for example, paper ballot backups and cybersecurity hardening
- Updating election commission reporting requirements regarding foreign contacts
- Expanding or more clearly defining the scope of prohibited activity under the election laws
- Social media ad financing disclosure requirements
- Cybersecurity training, guidelines and resources for state and locals
- Oversight & accountability for DHS election cybersecurity activities
- Reporting requirements for social media platforms to provide transparency about evidence of foreign influence on their platforms in connection with election seasons
- Intelligence community transparency requirements and oversight regarding election threat information

On the leadership front, the duty is rooted in members' oath of office and allegiance to the Constitution. This is also why the evidence in Volume I of the Special Counsel's report – in addition to the public statements made by the president and his most senior advisors – cannot be ignored. One cannot faithfully defend the Constitution and be open to receiving foreign assistance to win an election at the same time, and take actions to obstruct a federal investigation into the foreign interference efforts. The oath and those acts are incompatible. And they should be of grave concern to this body which carries its own Constitutional responsibilities. That concern is meaningless unless there is action accompanying it.⁵²

We cannot just write off what transpired in 2016, and what foreign threats against our democratic processes continue to exist. Right now, today, there is no whole of government strategy to counter foreign influence in elections and democratic institutions, no presidential leadership to secure our elections, and no legislation passed by Congress to address election security or foreign influence.

Instead, we have deflection, apathy and inaction.

We cannot ignore the information in the Special Counsel's report. We cannot not care. We have to care. And we have to act. We have to raise our expectations. Protecting Americans from foreign interference in our democracy needs to begin, here. Protecting our constitutional system of checks & balances, needs to begin, here. Protecting our shared values, free elections, and American interests needs to begin, here.

⁵² William Cohen, "When Will the Republican Silence on Trump End?" Washington Post, May 29, 2019, https://www.washingtonpost.com/opinions/2019/05/29/when-will-republican-silence-trump-end/?hpid=hp_hp-top-table-main-trump-silence%3Ahomepage%2Fstory&utm_term=.3ba46e3797a9.



Chairman NADLER. Thank you very much.
Professor Hasen.

TESTIMONY OF RICHARD HASEN

Mr. HASEN. Chairman Nadler, Ranking Member Collins, and members of the Judiciary Committee, thank you for the opportunity to appear here today to speak about a matter that is among my greatest concerns I have had in 25 years of researching and teaching about American election law and campaign finance issues: the potential for continued illegal foreign interference in United States elections and a United States President's ill-advised encouragement of foreign government meddling.

From Founding Fathers George Washington and Alexander Hamilton to Supreme Court Justices John Paul Stevens and Justice Brett Kavanaugh, American leaders have recognized that hostile foreign nations with, as Justice Stevens put it, no basic investment in the well-being of the country may attempt to interfere in American elections in order to manipulate an election's outcome or to curry favor with the winner.

Justice Kavanaugh in the 2011 case *Bluman v. Federal Election Commission* held that the United States has a compelling interest in democratic self-government. This unanimous opinion upheld the ban on foreign contributions and expenditures in American elections, and the Supreme Court affirmed the ruling without even issuing its own opinion.

Indeed, until President Trump came along there was broad bipartisan consensus that foreign interference in American elections undermines the idea that we the people, and not outsiders with interests adverse to the United States, get to choose American leaders.

In the wake of unprecedented Russian interference in the 2016 Presidential elections, and in light of statements made last week by President Trump that he saw, quote, "nothing wrong" with taking valuable information from a foreign government about an election opponent in the 2020 elections, it is worth considering both what current campaign finance law prohibits when it comes to foreign interference in elections and what steps Congress can and should take, consistent with the First Amendment, to ensure continued American self-government.

Volume I of the Mueller report revealed that agents of the Russian Government and military did three things. They engaged in a social media campaign to provoke and amplify social discord and eventually to support its favorite candidate, Trump. They stole emails from officials of the DNC, including campaign official John Podesta, and released them through WikiLeaks and other sources. And they, quote, "targeted individuals and entities involved in the administration of elections," including State boards of elections and voting machine companies.

The Department of Justice charged 13 individuals and entities affiliated with the Russian military with crimes related to these activities. We will never know the extent to which these Russian military activities influenced the outcome of the 2016 elections, but there is no question as to their intent. There is also little question that foreign powers will try to interfere again in 2020.

The Mueller report should be a wakeup call for all Americans. Three key congressional improvements would be increased cybersecurity funding, extending the foreign expenditure prohibition and disclosure laws to all online advertising, and requiring campaigns to report contacts from foreign agents.

But President Trump has not only failed to support these bipartisan measures, he has actually encouraged foreign meddling. In the 2016 election, Russian operatives targeted Hillary Clinton's personal offices approximately 5 hours after Trump remarkably encouraged the Russian Government to find Clinton's supposed 30,000 missing emails from her time as Secretary of State.

As to the 2020 elections, Trump even more outrageously told ABC News' George Stephanopoulos he saw nothing wrong with taking, quote, "opposition research" about an opponent from the government.

As explained in the Mueller report, this is illegal. The report cited Federal Election Commission authority for the view that opposition research counts as a thing of value under Federal law. The report stated, quote, "A foreign entity that engaged in such research and provided resulting information to a campaign could exert a greater effect in an election, and a greater tendency to ingratiate the donor to the candidate than a gift of money or tangible things of value."

While some may question whether American campaign officials understood that a foreign donation or opposition research to a campaign was illegal in 2016, everyone, including the President, is now on notice that for 2020 this conduct is illegal. And yet, the President's statements appear to be another invitation to foreign governments to provide valuable information on his opponents.

Legal or not, foreign government interference in American elections undermines our democracy and self-government. While it was the Russian Government supporting the Republican candidate in 2016, it could well be Russia or another country supporting a Democrat in 2020 or beyond.

The goal of the Russians is to foment discord, something which should worry every American regardless of political party.

Thank you for the opportunity to present these views. I welcome your questions.

[The testimony of Mr. Hasen follows:]

U.S. House Committee on the Judiciary
Hearing on “Lessons from the Mueller Report, Part II: Bipartisan Perspectives”
June 20, 2019

STATEMENT OF RICHARD L. HASEN

Chancellor's Professor of Law and Political Science*

UC Irvine School of Law
401 E. Peltason Dr., Suite 1000
Irvine, CA 92697-8000
949.824.3072 - office
rhasen@law.uci.edu

<http://www.law.uci.edu/faculty/full-time/hasen/>
<http://electionlawblog.org>

***affiliation for identification purposes only**

Chair Nadler, Ranking Member Collins, and Members of the Judiciary Committee:

Thank you for the opportunity to appear before you today to speak about a matter that is among the greatest concerns I have had in twenty-five years of researching and teaching about American election law and campaign finance issues: the potential for continued illegal foreign interference in United States elections and a United States president's unprecedented and ill-advised encouragement of foreign governments to meddle in our elections.

From founding fathers George Washington¹ and Alexander Hamilton² to former Supreme Court Justice John Paul Stevens³ and current Supreme Court Justice Brett Kavanaugh, American leaders have recognized that hostile foreign nations—with, as Justice Stevens put it, “no basic investment in the well-being of the country”—may attempt to interfere in American elections in order to manipulate an election's outcome or to curry favor with the winner.

As Justice Kavanaugh wrote in the 2011 case, *Bluman v. Federal Election Commission*, “It is fundamental to the definition of our national political community that foreign citizens do not have a constitutional right to participate in, and thus may be excluded from, activities of

¹ George Washington, Washington's Farewell Address (1796), available at: https://avalon.law.yale.edu/18th_century/washing.asp (warning “[a]gainst the insidious wiles of foreign influence (I conjure you to believe me, fellow-citizens) the jealousy of a free people ought to be constantly awake, since history and experience prove that foreign influence is one of the most baneful foes of republican government.”).

² THE FEDERALIST NO. 68 (1788) (Alexander Hamilton), available at: https://avalon.law.yale.edu/18th_century/fed68.asp (“These most deadly adversaries of republican government might naturally have been expected to make their approaches from more than one quarter, but chiefly from the desire in foreign powers to gain an improper ascendant in our councils. How could they better gratify this, than by raising a creature of their own to the chief magistracy of the Union?”).

³ *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310, 424 (2010) (Stevens, J., dissenting) (criticizing a view of the First Amendment that would afford the same protection to the propaganda of “Tokyo Rose” as to Allied commanders during World War II or that would give foreign-controlled multinational corporations the same free speech rights as individual Americans); see also *id.* at 424 n.51 (“The notion that Congress might lack the authority to distinguish foreigners from citizens in the regulation of electioneering would certainly have surprised the Framers, whose obsession with foreign influence derived from a fear that foreign powers and individuals had no basic investment in the well-being of the country.”) (internal quotations omitted); cf. *id.* at 362 (opinion of the Court) (“We need not reach the question whether the Government has a compelling interest in preventing foreign individuals or associations from influencing our Nation's political process.”).

democratic self-government. It follows, therefore, that the United States has a compelling interest for purposes of First Amendment analysis in limiting the participation of foreign citizens in activities of American democratic self-government, and in thereby preventing foreign influence over the U.S. political process.”⁴ In *Bluman*, then-D.C. Circuit Court Judge Kavanaugh’s opinion for a unanimous three-judge district court upheld the federal ban on foreign contributions and expenditures in American elections. The Supreme Court thought this conclusion was so self-evident that it summarily affirmed the ruling without even scheduling oral argument and issuing its own opinion.⁵

Indeed, until President Trump came along, there was broad bipartisan consensus that foreign interference in American elections undermines the idea that “we the people,” and not outsiders—and especially not outsiders from foreign governments with interests adverse to the United States—get to choose American leaders and make the case to our fellow citizens as to who deserves to be elected and why.

In the wake of unprecedented Russian interference in the 2016 presidential elections, and in light of statements made last week by President Donald Trump in an interview with ABC News’s George Stephanopoulos to the effect that he saw “nothing wrong” with taking valuable information from a foreign government about an election opponent in the 2020 elections,⁶ it is

⁴ *Bluman v. Fed. Election Comm’n*, 800 F. Supp. 2d 281, 288 (D.D.C. 2011) (three-judge court), *aff’d*, 565 U.S. 1104 (2012).

⁵ *Bluman v. Fed. Election Comm’n*, 565 U.S. 1104 (2012) (summary affirmance).

⁶ Here is a relevant portion of the transcript of the interview:

STEPHANOPOULOS: Your campaign this time around, if foreigners, if Russia, if China, if someone else offers you information on opponents, should they accept it or should they call the FBI?

TRUMP: I think maybe you do both. I think you might want to listen, I don’t, there’s nothing wrong with listening. If somebody called from a country, Norway, “We have information on your opponent.” Oh, I think I’d want to hear it.

STEPHANOPOULOS: You want that kind of interference in our elections?

worth considering both what current campaign finance law prohibits when it comes to foreign interference in elections and what steps Congress can and should take, consistent with the First Amendment, to insure that American self-government is preserved as we enter the 2020 election period.

Volume I of the Mueller Report⁷ revealed that agents of the Russian government and military engaged in three sets of activities intended to disrupt the 2016 presidential elections and to support the election of Donald Trump. First, acting through the “Internet Research Agency,” the Russian government used social media platforms including Facebook and Twitter to launch “a social media campaign designed to provoke and amplify political and social discord in the United States The campaign evolved from a generalized program . . . to undermine the U.S. electoral system, to a targeted operation that by early 2016 favored candidate Trump and disparaged candidate Clinton.”⁸ Second, the General Staff of the Russian Army, or GRU, engaged in hacking to steal emails from officials of the Democratic National Committee and Clinton campaign official John Podesta, and to release them through WikiLeaks and other sources.⁹ Third, Russian military officials “targeted individuals and entities involved in the

TRUMP: It's not an interference, they have information. I think I'd take it. If I thought there was something wrong, I'd go maybe to the FBI. If I thought there was something wrong. But when somebody comes up with oppo research, right, that they come up with oppo research. Oh, let's call the FBI. The FBI doesn't have enough agents to take care of it, but you go and talk honestly to congressmen, they all do it, they always have. And that's the way it is. It's called oppo research.

Transcript: ABC News' George Stephanopoulos' exclusive interview with President Trump, ABC NEWS, June 16, 2019, <https://abcnews.go.com/Politics/transcript-abc-news-george-stephanopoulos-exclusive-interview-president/story?id=63749144&>.

⁷ I SPECIAL COUNSEL ROBERT S. MUELLER, III, REPORT ON THE INVESTIGATION INTO RUSSIAN INTERFERENCE IN THE 2016 PRESIDENTIAL ELECTION (Mar. 2019) [hereinafter MUELLER REPORT]. The official version appears at <https://www.justice.gov/storage/report.pdf>, and a searchable version appears at <https://www.documentcloud.org/documents/5955379-Redacted-Mueller-Report.html#document/https://perma.cc/9TEW-JD3Z>.

⁸ *Id.* at 4.

⁹ *Id.* at 4-5.

administration of elections,”¹⁰ including state boards of elections and voting machine companies. In Illinois, for example, they gained access “to a database containing information on millions of registered Illinois voters” and “extracted data related to thousands of U.S. voters.”¹¹

The Department of Justice, acting through the Office of the Special Counsel, charged 13 Russian individuals and entities affiliated with the military with “participating in a conspiracy to defraud the United States by undermining through deceptive acts the work of federal agencies charged with regulating foreign influence in U.S. elections,”¹² including the Federal Election Commission tasked with enforcing campaign finance laws. The DOJ also brought charges related to the computer hacking, including under the federal computer-intrusion statute.¹³

We will never know the extent to which these Russian government military activities influenced the outcome of the 2016 elections, but there is no question of its intent to influence the election outcome and sow social discord. There also is little question that the foreign powers likely will try to interfere again in 2020 unless deterred.

The Mueller Report should be a wake-up call for all Americans to be vigilant against continued foreign interference and for Congress to pass laws to make such interference more difficult. Three key improvements would be (1) increasing cybersecurity funding; (2) extending the foreign expenditure prohibition and disclosure laws to all online advertising;¹⁴ and (3)

¹⁰ *Id.* at 50.

¹¹ *Id.*

¹² *Id.* at 9.

¹³ *Id.*

¹⁴ For an explanation that much of the Russian social media activity was not illegal under current federal law and how federal law could be fixed to cover the activity and improve disclosure, see Richard L. Hasen, *Cheap Speech and What It Has Done (to American Democracy)*, 16 FIRST AMEND. L. REV. 200, 218-221 (2018), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3017598. Some scholars have argued that a broader foreign contribution and spending ban could violate the First Amendment, and the Mueller Report noted “First Amendment questions” with prosecuting someone for contributing, soliciting, or accepting foreign “opposition research.” See MUELLER REPORT, *supra* note 7, at 187. I argue in *Cheap Speech* that the First Amendment is generally not a bar to an extended foreign contribution and spending ban, especially if it is applied to principals of foreign governments. Hasen, *supra*, at 220 n.88; see also *id.* at 218-19 n.83 (explaining the reason for rejecting First Amendment

requiring campaigns to report contact from foreign agents attempting to influence American elections.

But President Trump not only has failed to support bipartisan measures to improve American elections; he has actively encouraged foreign meddling. In the 2016 election, Russian operatives targeted Hillary Clinton's personal offices approximately five hours after Trump remarkably encouraged the Russian government to find Hillary Clinton's supposed 30,000 missing emails from her time as Secretary of State.¹⁵ As to the 2020 elections, Trump even more outrageously told ABC News's George Stephanopoulos in an interview last week that he saw nothing wrong with taking "opposition research" about a 2020 opponent from a foreign government if offered to him.¹⁶

As explained in the Mueller Report, this is illegal. "[F]oreign nationals may not make—and no one may solicit, accept, or receive from them—a contribution or donation of money or other thing of value or an express or implied promise to make a contribution or donation, in connection with a Federal, State, or local election. The term contribution . . . includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office."¹⁷

challenge to the extension of foreign expenditure ban based on overbreadth). Such a ban can and should include an exception for foreign journalistic activities.

¹⁵ See 1 MUELLER REPORT, *supra* note 7, at 49 ("On July 27, 2016, Unit 26165 targeted email accounts connected to candidate Clinton's personal office. Earlier that day, candidate Trump made public statements that included the following: 'Russia, if you're listening, I hope you're able to find the 30,000 emails that are missing. I think you will probably be rewarded mightily by our press.' The '30,000 emails' were apparently a reference to emails described in media accounts as having been stored on a personal server that candidate Clinton had used while serving as Secretary of State. Within approximately five hours of Trump's statement, GRU officers targeted for the first time Clinton's personal office.") (footnote and paragraph break omitted).

¹⁶ See ABC NEWS, *supra* note 6.

¹⁷ MUELLER REPORT, *supra* note 7, at 184 (quoting 52 U.S.C. §§ 30121(a)(1)(A)–(a)(2), 30101(8)(A)(i)) (internal citations and quotation marks omitted). Federal law does not prohibit the use of foreign vendors paid at market rates for goods or services, so long as a foreign national is not put in a policymaking position. 11 C.F.R. § 111.20(i) (2014). As the Republican-led House Permanent Select Committee on Intelligence concluded in its *Report on Russian Active Measures* 127 (Mar. 22, 2018), https://docs.house.gov/meetings/IG/IG00/20180322/108023/HRPT-115-1_1-p1-U3.pdf, "Under current federal election law, foreigners are prohibited from making contributions or

To be clear: the Mueller Report cited Federal Election Commission authority for the view that opposition research and other such information counts as a “thing of value” under the federal law that bars foreign governments and other foreign entities and people from contributing a “thing of value” to a federal campaign.¹⁸ While measuring the value of opposition research precisely could be difficult for a prosecutor to do in a particular case should someone be charged with conspiring to violate the foreign contribution ban,¹⁹ the Mueller Report did not question the government’s compelling interest in self-government to justify the law prohibiting foreign in-kind contributions to American campaigns.²⁰ As the report stated, “[a] foreign entity that engaged in such research and provided resulting information to a campaign could exert a greater effect on an election, and a greater tendency to ingratiate the donor to the candidate, than a gift of money or tangible things of value.”²¹

The Mueller Report also made it clear that to be charged criminally with violating the foreign contribution prohibition, it is necessary to prove that a person violated the law “willfully,” knowing of the foreign contribution ban and violating it nonetheless.²² While some may question whether American campaign officials understood that a foreign donation of opposition research to a campaign was illegal in 2016, everyone, including the President, now is

donations in connection with any campaign in the United States. However, it is not illegal to contract with a foreign person or foreign entity for services, including conducting opposition research on a U.S. campaign, so long as the service was paid for at the market rate.” (footnote omitted). The Clinton campaign during the 2016 election apparently paid market rates to a foreign national, former British spy Christopher Steele, for the so-called “Steele Dossier” containing supposed opposition research about Trump, which would make such payments legal. Adam Entous, Devlin Barrett, & Rosalind S. Helderman, *Clinton Campaign, DNC Paid for Research that Led to Russian Dossier*, WASH. POST, Oct. 24, 2017, <https://wapo.st/2WQrYsm>.

¹⁸ MUELLER REPORT, *supra* note 7, at 187-88. The report, however, noted that there was no judicial decision so holding. *Id.* at 188.

¹⁹ *Id.* at 187.

²⁰ See *id.* at 184 (citing *Bluman* for the proposition that the interest in “self-government” justifies the foreign contribution and spending ban).

²¹ *Id.* at 187.

²² *Id.* at 187-88 (explaining lack of proof of willfulness beyond a reasonable doubt as one reason why Special Counsel declined to prosecute members of the Trump campaign that attended the June 2016 Trump Tower meeting with agents of the Russian government).

on notice for 2020 that this conduct is illegal, and that acceptance of such information can be a crime. And yet the President's statements appear to be another invitation to foreign governments to provide valuable information on his opponents, either to help keep him in office or to curry favor with him while he remains in office.

Even if it were not illegal, calling for foreign government interference in American elections undermines American democracy and self-government. And while the Russian government supported the Republican candidate in 2016, it could well support a Democrat in 2020 or beyond. The Russian government's goal is to foment discord, something which should worry every American regardless of political party.

The Mueller Report reveals that American democracy and self-government indeed came under unprecedented attack in 2016. Things stand to get much worse in 2020 unless Congress acts, especially given the dangerous statements of the President welcoming foreign interference in 2020.

Thank you for the opportunity to present these views. I welcome your questions.

Chairman NADLER. Thank you.
Dr. Polyakova.

TESTIMONY OF ALINA POLYAKOVA

Dr. POLYAKOVA. Thank you, Chairman Nadler, Ranking Member Collins, and distinguished members of the committee. It is a real honor and privilege to address you here today in this critical issue concerning our democracy. Thank you for inviting me to speak.

I have submitted my written testimony for the record, which focuses on Russia's intent towards democracies, in particular the United States; Russia's political warfare against the West; and why these actions should be of deep concern to all of us here in the United States and elsewhere.

First, a quick caveat. Throughout my oral comments, I refer to Russia as a shorthand to refer to the authoritarian regime of President Vladimir Putin, and in no way do I refer to the Russian people, who are indeed the primary victims of Kremlin's repressive regime.

By now, it should be clear to all of us that Russia is engaged in a political warfare against Western democracies. As is accurately stated in the Mueller investigation report, its broader intent is to undermine trust in our democratic institutions, values, and principles, which the Kremlin sees as a threat to its own authoritarian model of control.

The Kremlin's toolkit of influence is a 21st century adaptation of Soviet era active measures, which includes digital disinformation campaigns, cyber warfare, political infiltration, and the use of corruption to influence democratic politics.

To date, the report and the investigation's related indictments from February 2018 and July 2018 against the Internet Research Agency, the so-called troll farm, and the Russian military intelligence, the GRU, provide the most comprehensive assessment of the continuing and evolving Russian threat.

Today I will focus my comments primarily on the information operations that the Russian Government carried out against the United States, mainly because this is the area we continue to lag behind in addressing this critical threat.

The Mueller report, which has been sustained by independent reporting, clearly shows that Russia's information operations were highly adapted to the political context of the United States, followed a well-thought-out strategic plan, and involved direction from Russian intelligence. They were also incredibly effective in infiltrating American media while influencing public debate around the 2016 elections.

Their main objective was to undermine trust in our democratic process. The nature of that attack, as my colleagues have already stated, involved three interrelated parts: an information operation led by the IRA, a cyber hack and leak operation carried out by the Russian military intelligence, and infiltration operation of the Trump campaign.

The information operations began as early as 2014, a full 2 years before our Presidential elections. They resembled a marketing campaign using the tools provided by social media platforms.

In brief, they proceeded in four phases:

An initial phase of building a network of online accounts by impersonating American individuals, particularly on Facebook.

By 2015, the second phase involved building audience growth by creating pages and content that were not necessarily political, even divisive, but simply meant to build increasing attention to IRA-controlled pages and accounts.

By 2016, the IRA turned explicitly to the U.S. elections with the goal of undermining the Clinton campaign and amplifying social division.

It was not until the late spring of 2016, so a few months before our Presidential elections that fall, that it turned to active promotion of then candidate Donald Trump. By the end of the 2016 elections, the IRA had the ability to reach as many as 126 million people on Facebook and 1.4 million on Twitter.

The IRA was part of a larger interference project funded by the Russian oligarch Yevgeny Prigozhin called Project Lakhta. Yet, due to the extensive nature of the redactions in the Mueller report, we still don't know the full scope of the command structure, how far into the Kremlin the decisionmaking process reached, and how the project continues to be funded today.

The Russian operation against the United States does not stand alone. It fits into a much broader pattern of Russian nonkinetic activities, tested first and foremost in the former Soviet countries, most notably Ukraine.

Russian influence operations also do not focus on isolated events. They do not stop when the ballot box closes. Rather, taken as a whole, they are the core of a political strategy honed in Europe's East and deployed against the West to weaken democratic institutions and sow discord in our societies.

In my written testimony, I provide multiple examples of how the Russian Government has, since at least 2004, intervened and interfered in Ukraine's democratic processes and how it continues since the 2016 elections to interfere in the democratic societies of our allies in Europe.

It is particularly concerning that many European far-right political parties have formal cooperation agreements with the Kremlin's United Russia Party, including the ruling party in Italy, called the League, and the Austrian Freedom Party, which has been until recently a coalition government with the center-right in Austria.

Thus, the operation targeting the United States Presidential election may have been the most prominent case of Russian political warfare, but has not been the last, nor will it be. That's because so far we have fallen behind in addressing this threat.

In particular, the United States has fallen behind our European allies in imposing costs that would deter Russia from carrying out future attacks of this nature in the upcoming elections and other critical moments of concern to the Russian Federation.

Whereas military strikes are much more readily felt, influence operations are not clearly felt by American people and other citizens in democratic societies. Yet, over time they are a slow drip that starts to burrow a hole in that delicate political contract between our institutions and our citizens, eroding democratic discourse and undermining the democratic process.

The lack of consequences imposed on Russia for its attack on the United States sends a very clear message to other authoritarian regimes that they currently have an open door to further destabilize our democracy. We should not and cannot let this stand.

Thank you.

[The testimony of Dr. Polyakova follows:]

BROOKINGS

United States House Committee on the Judiciary

Lessons from the Mueller Report, Part II: Bipartisan Perspectives

June 20, 2019

Dr. Alina Polyakova

Director, Global Democracy and Emerging Technology
Fellow, Center on the United States and Europe
Foreign Policy Program
Brookings Institution

Dear Chairman Nadler, Ranking Member Collins, Distinguished Members of the Committee:

It is an honor and privilege to address you today on this important issue. Thank you for inviting me to speak.

The Russian government is engaged in political warfare against the West. Its intent is to undermine trust in democratic institutions, values, and principles, which the Kremlin sees as a threat to its own authoritarian model. The Kremlin's tool-kit of influence is a twenty-first century adaptation of Soviet era "active measures," and includes: disinformation and propaganda campaigns, cyber warfare, political infiltration, and the use of corruption to influence politics.

The Russian operation against the United States, as detailed in the Special Counsel report, fits into a broader pattern of Russian non-kinetic activities—tested, first in foremost, in former Soviet countries, most notably Ukraine. The operation targeting the 2016 U.S. presidential election may be the most prominent case of Russian political warfare against the West, but it has not been the last. Since 2016, Moscow has interfered, in various ways, in France, the United Kingdom, Germany, Montenegro, Spain, and elsewhere.

The Mueller report describes in stunning detail the nature, intent, and inner working of the Russian government's influence operation against the United States before, during, and after the 2016 U.S. presidential elections. To date, the report¹ and the investigation's related indictments from February 2018² and July 2018³ against the Internet Research Agency (IRA) and Russian military intelligence (GRU) provide the most comprehensive assessment of how the Russian strategy evolved over time and how successful the information operations were in targeting and duping Americans. The Mueller report

¹ Robert S. Mueller, III, "Report On The Investigation Into Russian Interference In The 2016 Presidential Election" (U.S. Department of Justice, Washington, DC, 2019), <https://www.justice.gov/storage/report.pdf>.

² UNITED STATES OF AMERICA v. INTERNET RESEARCH AGENCY LLC A/K/A MEDIASINTEZ LLC A/K/A GLAVSET LLC A/K/A MIXINFO LLC A/K/A AZIMUT LLC A/K/A NOVINFO LLC et al. 18 U.S.C. §§ 2, 371, 1349, 1028A (2018). <https://www.justice.gov/file/1035477/download>.

³ UNITED STATES OF AMERICA v. VIKTOR BORISOVICH NETYKSHO et al. 18 U.S.C. §§ 2, 371, 1030, 1028A, 1956, and 3551 et seq. (2018). <https://www.justice.gov/file/1080281/download>.

clearly shows that the Russian information operations were highly adaptive to the political context in the United States, followed a well-thought out strategic plan, involved direction from Russian intelligence, and were incredibly effective in infiltrating American media while influencing public debate around the 2016 election. Their main objective was to undermine trust in the democratic process.

The nature of the Russian attack on the United States

Through various proxies, the Russian government carried out a multi-pronged attack against the United States that aimed to amplify pre-existing divisions in American society, sow distrust in the democratic process, and incite conflict. The campaign involved three distinct elements:⁴

1. An information operation led by the Internet Research Agency (IRA);
2. A cyber hacking operation carried out by the Russian military intelligence agency (GRU); and
3. An infiltration operation of the Trump campaign.

Here, I will focus my comments on the information operations, which began as early as 2014 and resembled a marketing campaign. There were four phases to the information operations. The IRA's first step was to build a network of accounts by creating individual impersonation accounts meant to look like Americans, particularly on Facebook.

Second, the IRA focused on audience growth by creating pages and content that were not necessarily political or even divisive, but simply meant to attract more eyeballs to IRA-controlled pages and accounts. By early 2015, the IRA had turned to audience-building around divisive social issues by creating social media groups and pages posing as U.S. groups and activists, such as "Secured Borders" and "Blacktivist." The IRA's intent from the outset was to use its digital operations to affect real life: as early as 2015, the IRA attempted to organize rallies on divisive social issues.

Third, and once the network had reached a critical mass, the IRA turned explicitly to the U.S. elections around February 2016. The goal was to undermine the Clinton campaign. Instructions (from a redacted source) to the IRA read: "Main idea: use any opportunity to criticize Hillary [Clinton] and the rest (except Sanders and Trump – we support them)" (p. 25). The focus remained primarily on criticizing Clinton until late spring 2016.

In its last step, by the summer of 2016, the IRA began to actively promote then-candidate Donald Trump. At the same time, it aimed to further increase its audience by purchasing advertisements to promote its pages and reaching out via private messages to Facebook users prompting them to organize anti-Clinton rallies. The IRA purchased over 3,500 ads and spent approximately \$100,000. In mid-2017, the most popular IRA-controlled group—"United Muslims of America"—had over 300,000 followers.

By the end of the 2016 election, the IRA "had the ability to reach millions of U.S. persons through their social media accounts" on Facebook, Instagram, Twitter, YouTube, and Tumblr, according to the report

⁴ Alina Polyakova, "The Next Russian Attack Will Be Far Worse than Bots and Trolls," *Lawfare*, March 20, 2018, <https://www.lawfareblog.com/next-russian-attack-will-be-far-worse-bots-and-trolls>.

(p. 26). Facebook later estimated that IRA-controlled accounts reached as many as 126 million people,⁵ and an additional 1.4 million⁶ were reached through Twitter.

The IRA was part of a larger interference project funded by Russian oligarch Yevgeny Prigozhin called “Project Lakhta.” The IRA hired specialists for each social media platform, who were given specific instructions on which messages to push, how, and the performance quotas they had to meet. Yet, we still don’t know the full scope of the command structure, how far into the Kremlin the decision-making process reached, and how the project continues to be funded today.

A pattern of political warfare against democracies

During Vladimir Putin’s tenure, the Russian government has significantly built up its nonconventional warfare capacities, most notably in the information and cyber domains. In particular, digital information warfare is low-cost and high-impact, making it the perfect weapon of a technologically and economically weak power, like Russia.⁷ The Russian government has tested these tools first on its own people. It is telling, for example, that the majority of the IRA’s 800-900 employees were engaged in Russian language activities. Of those, approximately 80 were working on the “translator project” targeting the United States.⁸

Russian influence operations do not focus on isolated events. Rather, taken as whole, they are at the core of a political strategy—honed in Europe’s East and deployed against the West—to weaken democratic institutions, sow discord in societies, and divide the transatlantic alliance. In addition to information operations and cyber-attacks, the Russian government supports, in various ways, far-right political groups and parties in Europe. In May of this year, the head of the Austrian far-right Freedom Party (FPÖ), Heinz-Christian Strache, was forced to resign after a video surfaced showing Strache offering government contracts and a stake in one of Austria’s largest newspapers in exchange for Russian support for his party.⁹ France’s far-right National Front received a loan of approximately \$9.8 million in 2014 from a Russian bank, and in 2017, the party’s leader and then-presidential candidate, Marine Le Pen, requested an additional \$29 million loan from Russia. Italy’s League and the Austrian Freedom Party both have formal cooperation agreements with the Kremlin’s United Russia party. The U.S. operation thus fits into a broader pattern of influence activities.¹⁰

A few prominent examples of the pattern of behavior:

⁵ Mike Isaac and Daisuke Wakabayashi, “Russian Influence Reached 126 Million Through Facebook Alone,” *The New York Times*, October 30, 2017, <https://www.nytimes.com/2017/10/30/technology/facebook-google-russia.html>.

⁶ Christopher Carbone, “1.4 million Twitter users engaged with Russian propaganda during election,” *Fox News*, February 1, 2018, <https://www.foxnews.com/tech/1-4-million-twitter-users-engaged-with-russian-propaganda-during-election>.

⁷ Alina Polyakova, “Weapons of the weak: Russia and AI-driven asymmetric warfare,” (Washington, DC, United States: Brookings Institution, November 2018), <https://www.brookings.edu/research/weapons-of-the-weak-russia-and-ai-driven-asymmetric-warfare/>.

⁸ Polina Rusyaeva and Andrey Zakharov, “Расследование РБК: как «фабрика троллей» поработала на выборах в США,” *RBC*, October 17, 2017, <https://www.rbc.ru/magazine/2017/11/59e0c17d9a79470e05a9e6c1>; Ben Collins, Gideon Resnick, Spencer Ackerman, “Leaked: Secret Documents From Russia’s Election Trolls,” *The Daily Beast*, March 1, 2018, <https://www.thedailybeast.com/exclusive-secret-documents-from-russias-election-trolls-leak>.

⁹ Alina Polyakova, “You Can’t Trust the Far Right,” *The New York Times*, May 20, 2019, <https://www.nytimes.com/2019/05/20/opinion/austria-russia-far-right.html>.

¹⁰ Alina Polyakova and Spencer Boyer, “The Future of Political Warfare: Russia, the West, and the Coming Age of Global Digital Competition,” (Washington, DC, United States: Brookings Institution, March 2018), https://www.brookings.edu/wpcontent/uploads/2018/03/fp_20180316_future_political_warfare.pdf.

Ukraine has been the top target of Russian political warfare. Since at least 2004, Russia has consistently interfered in Ukraine's democracy. In 2014, Russia-linked cyber hackers infiltrated Ukraine's central election commission, deleting key files and implanting a virus that would have changed the results of the election in favor of a fringe ultra-nationalist party, Right Sector. A barrage of malware, denial of service attacks, and phishing campaigns bombard Ukraine's critical infrastructure environments on a daily basis. In December 2015, a well-planned and sophisticated attack on Ukraine's electrical grid targeted power distribution centers and left 230,000 residents without power the day before Christmas. The Ukrainian government attributed the attacks to the Russian Advanced Persistent Threat (APT) group "Sandworm." "BlackEnergy," the same Sandworm malware that caused the blackout in Ukraine, has been detected in electric utilities in the United States. The Christmas attack is the worst known cyber-attack on critical infrastructure systems to date.

Russian operations have also targeted Western European democracies. In 2016, in Germany, Russia's Channel One—a Russian state television channel broadcasting into Germany in Russian—initially reported that a Russian-German girl named Lisa, who had been missing for 30 hours, was sexually assaulted by migrants in Berlin. German police quickly determined that the story was false. But it was too late: the story was amplified by German and English-language Russian media (RT and Sputnik), and was widely disseminated on social media, eventually leading to demonstrations against immigrants and Chancellor Merkel. In the end, the story was traced back to a Facebook group and anti-refugee website called "Ayslterror" with Russian links.

Following the U.S. 2016 elections, an online disinformation campaign, #MacronLeaks, targeted the campaign of Emmanuel Macron in the spring of 2017. Russian intelligence agents created bogus Facebook personas in order to spy on then-candidate Macron. In addition, a trove of Macron campaign officials' emails was hacked. Even though the emails were dumped publicly just two days before the elections, during the period when media were no longer allowed to report on the elections in accordance with French law, the Twitter campaign #MacronLeaks reached 47,000 tweets in just 3.5 hours after the initial tweet.

Why Russian political warfare matters

Unlike a conventional military attack, which has direct and often detrimental consequences, a nonconventional threat is not readily felt or seen. Political warfare is purposely opaque, subversive, and thus difficult to attribute. It operates in the "grey zone." Whereas a military strike is akin to a sledgehammer with a physical target, influence operations are more like a slow drip: on its own, a single Facebook ad or a Tweet by a Russian troll-farm worker may not have any impact. But on the whole, and combined with other tools of influence, these operations aim at the core of democratic societies: trust.

Democracies work only as long as citizens trust their democratic institutions to represent their interests. Over time, the slow drip of disinformation starts to burrow a hole in that delicate political contract, eroding democratic discourse and undermining the democratic process. And disinformation campaigns don't stop when the ballot box closes—they are continuous and consistent. We may not feel the effects of such non-kinetic operations immediately or directly, but in the long-term, they present one of the greatest threats to the stability of our democracy.

Chairman NADLER. Thank you.
 Professor Prakash. I hope I pronounced it correctly.

TESTIMONY OF SAIKRISHNA PRAKASH

Mr. PRAKASH. You did. You did, Chairman Nadler. You did a great job, in fact.

Good morning, Chairman Nadler, Ranking Member Collins, and members of the Judiciary Committee. Thank you for the opportunity to participate in today's hearings. I want to underscore that my views today are just my views, they don't represent the institution that I work for.

I have four points today. I am going to be discussing the obstruction charges or the obstruction part of the report, Part II, not Part I.

First, I want to emphasize that Presidents have broad constitutional powers over the Justice Department, including the FBI, and for that matter, special counsels. That is their constitutional job. Just as it is yours to make laws, it is theirs to execute the laws. It is a mistake, a fundamental mistake, to view Presidential involvement in prosecutorial decisions as if that were ipso facto sinister interference in DOJ matters.

Second, the Mueller report does not demonstrate that the President committed obstruction of justice because the obstruction statutes do not apply to his official acts, and even if they did, we do not have clear proof that he committed obstruction of justice. Without more, the removal of James Comey and the attempted removal of Robert Mueller does not constitute a crime.

Third, contrary to the DOJ, I believe Presidents may be prosecuted while in office. I do not believe they have any immunity. Unlike you, they don't have immunity in the Constitution. You have a privilege from arrest found in the Constitution, and you have a Speech and Debate Clause. There is no such provision for Presidents. That is obviously contrary to what the DOJ says. The DOJ is not likely to listen to me, they are more likely to listen to their own opinions, but I think the DOJ is wrong about that.

And then fourth, and finally, the category of impeachable offense is incredibly broad. You are free to impeach the President whether or not he obstructed justice in a criminal sense. If you think he abused his power, you can impeach him for that reason. You could also impeach him if you think he violated the Emoluments Clause or the Appropriations Clause.

So let me talk about Presidents and prosecutions.

First, the Constitution makes the President the "constitutional executor" of the laws, as Hamilton wrote during the Washington administration. The President's principal power is the power over law execution. And this was recognized had not only by Hamilton on multiple occasions, but by James Madison, and of course George Washington. George Washington supervised American prosecutors. He told them whom to prosecute and he told them whom not to prosecute.

His successors did the same. John Adams would read the newspaper every morning and identify seditious writings and send them to his prosecutors. Now, the Sedition Act arguably was unconstitutional. It likely was unconstitutional. But the point is that John

Adams was reading the paper and asking prosecutors to prosecute individuals. And Thomas Jefferson supervised prosecution as well. He was heavily involved in the prosecution of his former vice president, Aaron Burr. They did this all without statutory warrant.

My second point is that the Mueller report, I think, assumes too quickly that the obstruction statutes apply to the official acts of government officials, including the President. I think that's a mistake.

The obstruction statutes are written in broad terms. But if you apply the obstruction statutes to the President, they apply no less to the Department of Justice. It means that every department official is involved in influencing an investigation, which means they have satisfied the act and nexus requirements.

The only question is whether they acted for a corrupt motive, which means it's possible that Robert Mueller and his aides committed obstruction of justice if they acted out of a corrupt motive.

I think that's a silly reading of the statute. I do not believe the statute is meant to apply to the Department of Justice or other government officials, and I would not read it to apply to Robert Mueller, or for that matter, the President.

Independent of that reading, the President has constitutional authorities over law execution, as I just mentioned. It is a mistake to read the obstruction statute written in general terms as if it applied to the President. There are many Supreme Court cases that choose not to read general statutes that are generally applicable as if they apply to the President for fear that it would chill the President's constitutional conduct. And I think the courts would very likely apply that rule to the obstruction statutes for fear that it might chill the President's supervision of the Justice Department.

So, for instance, if Bernie Sanders wins the next election, and Chris Wray is the FBI Director, and Bernie Sanders believes that Christopher Wray is misusing resources and dragging out an investigation of the Sanders administration, I think it is entirely permissible for Bernie Sanders to fire Chris Wray, and I don't think there should be an investigation merely because he did so. And I think that was the mistake at the outset. I don't know who authorized the investigation of obstruction, but I think it was a mistake because you can't infer an improper motive from the President's involvement.

And let me end with this point. The obstruction report of Robert Mueller said that the President can get involved in the prosecution if he has political or policy motives, but not if he has personal motives.

Everyone understands that the President had both motives, or could have had both motives when he chose to fire Comey. The personal motive would have been, "I don't want him to investigate me." The politics or policy reason would have been, "He is impeding my ability to conduct myself in this important office."

Anyone who was in an important office knows that their ability to carry out that office is impeded by an investigation, and if that is the reason, it is not corrupt and it is perfectly fine. The Mueller report says as much.

And so once you understand that, and the Mueller report does say this in the footnote and in the text, you can see why it's really difficult to show that the President's motive was actual corruption.

I see that I am over time. I welcome your questions.

[The testimony of Mr. Prakash follows:]

Statement of
Saikrishna Bangalore Prakash
James Monroe Distinguished Professor of Law
Paul G. Mahoney Research Professor
Miller Center Senior Fellow
University of Virginia

House Judiciary Committee

June 20, 2019

Good Morning Chairman Nadler, Ranking Member Collins, and members of the Judiciary Committee. Thank you for the opportunity to participate in this hearing on lessons from the Mueller Report.

Though I am a Professor of Law and Miller Center Senior Fellow at the University of Virginia, I want to underscore that my testimony reflects no one's views, save for my own. I also wish to emphasize that I don't come here as a Republican or Democrat. Nor do I come before you today as a supporter or opponent of the President. Rather I come as an American, a lawyer, and a legal scholar with a deep interest in the issues raised by the Mueller Report, by the prolonged investigation of the president, and by the president's actions. I am not here to praise or bury either President Donald Trump or that distinguished graduate of the University of Virginia, Robert Mueller.

I have spent my career studying the Constitution's separation of powers, with a particular emphasis on presidential power over law execution, war powers, and foreign affairs. I have authored a book on the creation of the presidency and several articles on law execution, prosecution, and presidential control over the bureaucracy.

Today, I have four points. First, presidents have broad constitutional authority to supervise the Department of Justice (DOJ), including directors of the Federal Bureau Investigation (FBI) and special counsels. That is their constitutional job—to execute the laws—just as yours is to make those laws. Attempts to paint the President's actions as sinister *interference* merely because of his influence in the investigatory process reflect profound constitutional errors. Second, the Mueller Report does not demonstrate that the President committed obstruction of justice because the obstruction statutes do not apply to his official

acts and, even if they did, we do not have clear proof that he acted with a corrupt intent. Without more, neither the removal of James Comey nor the attempted removal of Robert Mueller constitutes a crime. Third, presidents may be prosecuted while in office. Contrary to the DOJ, I believe that sitting presidents can be indicted and prosecuted. Moreover, the Mueller Report is mistaken in hinting that DOJ opinions prevented it from declaring that the president committed a crime. There is no such DOJ bar, much less a constitutional one. If the Special Counsel thought that the President committed a crime, he was (and is) entirely free to say so. Fourth, the category of impeachable offences is rather broad and covers not only constitutional violations but also abuses of constitutional authority. For instance, if you believe that the President violated the Emoluments Clause or dishonored the Appropriations Clause, you can impeach him. If you believe that the President abused his constitutional powers in connection with the Russia investigation, then you can certainly vote to impeach him for a high crime and misdemeanor.

The President's Plenary Power over Prosecutions and Prosecutors

First, the Constitution makes the president, as Alexander Hamilton put it, the "constitutional EXECUTOR" of federal law because the Constitution grants the office the executive power, a power principally concerned with law execution. Both Hamilton and Madison believed that the president had control over law execution, as did dozens of others. George Washington himself came to these conclusions. Without any statutory warrant and relying upon his constitutional authority alone, Washington directed prosecutors to commence and cease prosecutions. His successors did the same, with John Adams directing

prosecutions of his critics and Thomas Jefferson supervising the prosecution of his former Vice President, Aaron Burr. No one objected to these presidential commands to prosecutors because they understood that the president could control government attorneys. After all, prosecutors were exercising the *president's power* to execute the law. In sum, the Founding Fathers understood that, per the Constitution, the President was the Chief Prosecutor. In a manner of speaking the President is both a special and independent counsel. See Saikrishna Bangalore Prakash, *The Chief Prosecutor*, 73 GEO. WASH. L. REV. 521 (2005).

The president's powers over prosecutors and criminal investigators extend to firing them should he disagree with their actions in office. Prosecutors and investigators serve at the president's pleasure. Before the election, I and a colleague wrote that the new President could fire Director Comey if she or he believed that new leadership was in order. The piece was written under the assumption that Senator Hillary Clinton would prevail in the 2016 presidential contest. Saikrishna Prakash & Aditya Bamzai, *The Somewhat Independent FBI Director*, L.A. TIMES (Nov. 2, 2016).

Unlike the earliest occupants of the office, modern presidents have tended to avoid becoming enmeshed in particular investigatory or prosecutorial decisions. There are prudential reasons for presidents to adopt a hands-off approach—they have many other responsibilities, they do not wish to be drawn into minor matters, and they often do not know the merits of the underlying cases. But this pragmatic approach is in no way constitutionally required. It is but a matter of caution and discretion.

How does that background constitutional law apply here: President Trump did nothing constitutionally suspect when he fired James Comey. Indeed, I am dumbstruck that

this act (and the others that took place prior to the appointment of Robert Mueller) became the predicate for an obstruction of justice investigation. Without more, presidential involvement in the DOJ cannot and should not be a justification for an obstruction investigation. The mere firing of Comey was not, to my mind, evidence of corrupt motive. The mere thought (and perhaps attempt) to fire Mueller, without more, is not a crime. Too many people have casually conflated presidential supervision of the Justice Department with illegal obstruction. In fact, it is the president's job to supervise the DOJ; such direction is part of the constitutional scheme, authorized by the Vesting Clause and mandated by the Take Care Clause.

At times, portions of the Mueller Report could be read to suggest that any presidential involvement in the Russian investigation was necessarily improper. This perspective perhaps reflects a certain sort of bureaucratic mindset, a desire for independence and turf-protection. But insofar as the Constitution is concerned, the turf was entirely the president's. In contrast, neither special counsels nor FBI directors have any constitutional claim to authority.

Obstruction Statutes and Presidents

Second, the Report does not demonstrate that the President committed obstruction of justice both because the obstruction statutes do not apply to his official acts and, even if they did, we lack proof that he acted with a corrupt intent.

To begin with, I do not believe that the various obstruction statutes apply to the official acts of prosecutors, including the Chief Prosecutor. I do not believe that these

statutes should be read to apply to the decisions to prosecute, decline to prosecute, or any official decision in the context of an investigation or prosecution. If it did, every investigatory and prosecutorial act of every DOJ official satisfies the act and nexus elements of these obstruction statutes. After all, each official act, in the context of an investigation and prosecution, satisfies the requirement of an attempt to influence the investigation or prosecution. If the statutes do apply to the official acts of prosecutors, the only question would be whether these prosecutors acted corruptly. Two elements—the act and nexus elements—automatically would be satisfied given the context.

For instance, if the obstruction acts apply to DOJ personnel anyone can argue that Robert Mueller's investigation of the president interfered with the president's supervision of Justice Department investigation and therefore satisfied the act and nexus elements of the obstruction statutes; the only question would be whether Robert Mueller had a corrupt motive in influencing the president's supervision of an ongoing investigation. Are we to have an investigation arise out of the bare fact that Mueller's investigation of the president itself might have constituted obstruction of justice? In particular are we to have such an investigation to determine if Robert Mueller had a corrupt intent? If this were possible, someone might in turn investigate the obstruction investigation of Robert Mueller, and so on, leading to an infinite regression. My reading of the statutes—that they do not apply to the official acts of prosecutors and the Chief Prosecutor—eliminates these problems. We do not want endless investigations of investigations.

To be clear, I am not suggesting that either Robert Mueller or his assistants had a corrupt intent in investigating the President. My point is that on the Mueller Report's

reading of the statute anyone can make such a claim, thereby potentially triggering an investigation into his personal motivations and the impulses of his many assistants.

More importantly, there are profound constitutional reasons why the statutes should not be read as applying to the official acts of presidents. To be clear, I would read the obstruction statutes to apply to the president's private acts. But where a statute would interfere with the exercise of the president's constitutional powers, the statute ought not be read to cover the president's official acts. If you tell a president he can be investigated every time he becomes involved in prosecutorial matters, you've neutered the president's power to supervise the Justice Department and to serve as the nation's chief law enforcement officer.

For similar reasons, the Supreme Court has concluded that generic statutes should not be read to cover (or interfere with) the president's official acts when doing so would chill the exercise of the president's constitutional powers. As the Supreme Court said in *Public Citizen v. Department of Justice* in the context of whether the Federal Advisory Committee Act (FACA) applied to the president's consultations with the American Bar Association, "we are loath to conclude that Congress intended to press ahead into dangerous constitutional thickets in the absence of firm evidence that it courted those perils." 491 U.S. 440, 466 (1989). The reason for this hesitation was the assertion that if FACA applied to the ABA, it would interfere with the president's ability to nominate individuals. To my mind this was a weak argument because the president might nominate whomever he wished; the only question is whether the ABA had to comply with FACA. In the case of the obstruction statutes, the interference with the president's constitutional

authority over prosecution is more direct and palpable. It regulates him, rather than some third party.

The Court has even applied this clear statement rule to situations that do not involve the president's core constitutional powers. In *Franklin v. Massachusetts*, the Court decided that presidents need not comply with the Administrative Procedure Act because that generic statute ought not be read to cover presidents. "Out of respect for the separation of powers and the unique constitutional position of the President, we find that textual silence is not enough to subject the President to the provisions of the APA." 505 U.S. 788, 800-01 (1992). Likewise, out of respect for the president's constitutional authority over prosecution and his unique constitutional position, textual silence should not be enough to subject the President's constitutional acts to the generic obstruction of justice statutes.

Despite these sound rules emanating from the Supreme Court, the Mueller Report largely ignores these questions and thus marks a heedless, headlong charge into dangerous constitutional thickets. The Report misapplies the Supreme Court's doctrine as to the application of generic statutes to the president's official acts. The Report also pays insufficient attention to the possibility that the obstruction statutes might be unconstitutional if applied to the president because they would so chill the president's authority over law execution and impede the exercise of his other constitutional powers.

If the obstruction statutes may constitutionally apply to the president, what is to prevent Congress from passing an obstruction of legislation statute that makes corrupt

vetoes illegal? What is to prevent Congress from making every constitutional act of the president a crime, at least when done with a corrupt motive? To be clear, I don't wish to take a position on these questions. Rather my point is that that the Mueller report did an inadequate job of grappling with the constitutional consequences of its broad reading of the statutes.

Going forward any president who attempts to supervise an investigation into politically sensitive matters has to know that he or she may face an obstruction investigation because opponents can easily allege a corrupt motive. This reality will systematically disable presidents from supervising politically sensitive investigations. So, for instance, if President Bernie Sanders believes that FBI Director Chris Wray is misusing resources to investigate some phony scandal involving the Sanders' administration, President Sanders cannot do anything to supervise the process lest he invite an investigation of his improper "influence" upon FBI investigations. President Sanders certainly cannot fire Wray because there will be a firestorm and calls for a special counsel to investigate the President for obstruction.

In any event, even if we assume that the obstruction statutes apply to the President's official acts and that their application would be constitutional notwithstanding their severe chilling effects on presidential power, the Mueller Report never definitively states whether the President acted with a corrupt intent. Indeed, the Report's terse discussion of what constitutes a corrupt motive make clear the extreme perils of this sort of inquiry. The Report quotes a law dictionary for the definition. Corrupt means acting with an intent to secure an "improper advantage for [him]self or someone else, inconsistent with official duty and the

rights of others.” *BALLENTINE’S LAW DICTIONARY* 276 (3d ed. 1969). This suggests that sometimes it might be permissible to advantage oneself, so long as doing so is not “improper.”

The Report itself suggest as much. On the one hand, the report says that if an actor influences an investigation due to personal or family reasons that would be corrupt. On the other hand, the Report says that influencing an investigation for political and policy reasons is not corrupt. This is no easy line to draw. Ending the investigation would have been permissible, the report seems to concede, if a president’s reasons had to do with its effects on his ability to deal with foreign nations. And it would have been permissible had politics been the reason for terminating an investigation or prosecution. But ending an investigation because one is concerned about one’s own standing or reputation would be impermissible. How are observers to know the difference? Every president can say, truthfully, that an investigation of this sort impedes his ability to carry out his constitutionally assigned tasks because that is absolutely true. No one can doubt that the President’s political standing and his ability to get things done, both overseas and at home, was impaired by the Russia investigation and then the obstruction investigation. Given this truth, how are we to discern the difference between permissible motives and corrupt ones? Barring an implausible confession by a president that he acted solely on personal grounds, attempting to rule out the permissible motives—politics and policy—is simply impossible. Having said that all this, a president’s critics will not be reluctant to ascribe evil motives, for every presidential intervention into a sensitive investigation can be seen as motivated by personal reasons.

Little wonder that the Mueller Report continually struggles over whether the President acted out of a corrupt motive. Everything the President did could have been motivated by a permissible, non-corrupt motive. The Report lays bare the perils of attempting to peer into a president's head and asking whether, in exercising his constitutional powers, he acted for corrupt personal reasons as opposed to permissible reasons of policy and politics.

Prosecuting a Sitting President

To my third point: I disagree with the many Office of Legal Counsel (OLC) opinions which assert that a sitting president cannot be indicted or prosecuted while in office. To the contrary, I believe that the Constitution itself never grants the president any sort of privileges or immunities. I argue as much in my book and I draw from the more extensive argument there. SAIKRISHNA BANGALORE PRAKASH, *IMPERIAL FROM THE BEGINNING: THE CONSTITUTION OF THE ORIGINAL EXECUTIVE*, Chapter 9 (2015). Unlike Congress, the President lacks any sort of textual immunity from prosecution. He lacks a Speech and Debate Clause and he lacks a Privilege from Arrest Clause. Moreover, such executive privileges were hardly unknown. Both Delaware and Virginia granted their states executives some limited immunities; neither could be convicted while in office. The Founders might have done the same for our President. They did not. Indeed, they did not convey any special textual immunities despite the fact that James Madison brought the absence of executive privileges to their attention on the floor of the Philadelphia Convention. The presence of congressional privileges and immunities and the absence for the president speaks is telling.

At the Founding, several individuals concurred with this framework of no presidential immunity from criminal liability. James Wilson said that not a “single privilege is annexed” to the president. He also said that the president “is amenable to [the laws] in his private character as a citizen.” Another Federalist said the president “is not so much protected as that of a member of the House of Representatives, for he may be proceeded against like any other man in the ordinary course of law.” *IMPERIAL FROM THE BEGINNING*, 221-22.

Of course, the Office of Legal Counsel likely will never change its opinions on this question. And so long as it doesn't, no president will be prosecuted against his will, at least not by the DOJ. But, it seems to me, any president might choose to waive his supposed right. President Trump could test the assertion that he committed the crime of obstruction by seeking his day in court. I do not believe that the OLC opinions preclude this possibility. In other words, the privilege against criminal prosecution that OLC reads into the Constitution might be a waivable right rather than an absolute bar. Second, state attorneys general and state prosecutors could try to prosecute a president under state law because they are not bound to the OLC's conclusions on federal law. If they do so, the president's personal lawyers might interpose the constitutional claim of immunity. To be clear, I don't recommend that the President ask for his day in court or that state prosecutors bring state charges against President Trump.

At this point, some commentary on the Mueller Report's invocation of the OLC opinions is in order. The OLC has clearly stated that sitting presidents cannot be indicted and prosecuted. But it has never said that DOJ personnel, or anyone else for that matter,

are barred from making legal conclusions about whether the president violated the law. Hence nothing bars you, me, or any American from saying that the president committed a crime. More importantly, nothing in DOJ policy prevented Robert Mueller from reaching a conclusion about whether the President committed obstruction of justice. If Mr. Mueller ever testifies before the House or the Senate, I hope he clarifies why he reached no conclusion on obstruction in his voluminous report. It is a little startling to have a 182-page report on a possible crime and no conclusion on whether one was committed and no satisfactory explanation as to why no conclusions were reached. The report is like an apple pie without the filling. It is neither apple nor pie.

The Broad Scope of High Crimes and Misdemeanors

Fourth, let me say a few words about impeachment. Whether or not the obstruction statutes apply to a president's official acts and whether or not the current President violated any of them, the House may still impeach the President. In particular, Representatives can conclude that his acts over the course of the investigation amount to an abuse of his constitutional authority, whether we call it obstruction of justice or not. Very few (if any) scholars believe that "high crime & misdemeanors" is limited to actual federal crimes.

Furthermore, you don't need to believe the President committed obstruction of justice to impeach him, for you can rely upon a number of his other acts to do so, assuming you believe that they are high crimes and misdemeanors. If you believe the President violated the Emoluments Clause, of course you can impeach him for that. If you believe the President violated the Appropriations Clause by diverting funds from congressionally-sanctioned

purposes to his own purposes, of course you can impeach him for that. Finally, you could impeach him for his acts in Yemen and Syria, if you think that he violated your exclusive authority to declare war on behalf of the United States.

I believe that the President has committed impeachable offenses by acting beyond the Constitution and the statutes of the United States. The political difficulty is that he is not alone in this respect. Many modern presidents have usurped authority not theirs. Presidents have spent money without appropriations, started foreign wars, ignored the constitutional laws of Congress. I dare say that many, if not all of you, agree. The problem is that many members of Congress turn a blind eye to the constitutional faults of their co-partisans but then complain about presidents of the other party. Few will take you seriously if you say that President Trump's wall spending is illegal unless you also state that the Bush/Obama bailout of Chrysler and GM was illegal. No one will take you seriously if you say that Trump's war in Yemen is illegal but remain mum about Obama's wars in Libya and Yemen. Unfortunately, many members of Congress are letting us down by adopting inconsistent stances as to the scope of presidential power. The same power is sometimes broad and sometimes narrow and it all turns on who sits in the Oval Office. My advice is to pick a position and be consistent about the scope of presidential authority; utterly disregard a president's partisan affiliation. If you can do this consistently, Congress can regain some of its former glory, reputation, and power.

Conclusion: Move Forward with Impeachment or Move Beyond it

My last suggestion is that if you are going to impeach the President, please get it over with soon. If you believe the President committed the many offenses that many are apt to reel off, there is no need for months of further investigations. The President and his minions have been investigated for longer than he has been president, for almost three years now. Impeach him, convict him if you can, and move on to other matters that are important.

Alternatively, think seriously about censuring the president. Presidents have been censured or reproached before, most notably Andrew Jackson, John Tyler and James Buchanan (in each instance, a single chamber of Congress gave voice to criticisms of overreach and impropriety).

I will add that it might prove quite useful to lay down markers for future presidents to consider with respect to involvement in criminal investigations, diversion of funds, or presidential wars. Congress might benefit from speaking up more often and voters might benefit from statements that put their legislators on the record. Having to vote on generic resolutions, ones not tied to a particular set of acts or presidents, might help voters reward those members consistently devoted to enduring constitutional principles. Members have a duty to support the Constitution and I can think of no better way to partially fulfill that duty than taking public, formal stands on nonpartisan resolutions that speak to the scope of presidential power.

Chairman NADLER. Thank you. And I will begin by recognizing myself for 5 minutes.

Professor Prakash, first and very briefly, you said essentially something that we have heard a lot of people say, that the President has certain constitutional powers and that by excising those constitutional powers he can't commit obstruction of justice. He can fire someone for whatever reason he wants. Is that correct?

Mr. PRAKASH. That is not quite what I believe, Chairman. I think you could have gotten that from my adumbrated comments. But if you have a chance to look at the testimony, my view is that we ought not to read a general statute as if it covered the President, just like we ought not to read it to cover Robert Mueller, and that if it does cover the President, it raises difficult constitutional questions.

Chairman NADLER. All right. Let me ask you this. A Member of Congress has the absolute constitutional right to vote for or against a bill. But if he voted for or against a bill because someone gave him a bribe of \$50,000, that would be a crime.

Mr. PRAKASH. Yes.

Chairman NADLER. The President has the right to fire somebody. But if he fired somebody or to do anything else within his constitutional power for an improper reason, like someone gave him a bribe, or because for any other improper reason, you would agree that that would be illegal.

Mr. PRAKASH. Chairman, as you well know, the bribery statutes are about official conduct. It's hard to read a bribery statute as if it didn't reach official conduct. In contrast, the obstruction statutes aren't quintessentially about official conduct. Everybody is covered by it.

So I think it's easier to read the bribery statute as if it covered official acts because, of course, to bribe someone in an official capacity involves—

Chairman NADLER. You say some statutes cover official acts and others don't.

Mr. PRAKASH. Some statutes clearly do because they say as much. Some have the deep implication that they do.

Chairman NADLER. Thank you.

Professor Cordero, you noted in your testimony that you are a co-founder of Checks and Balances, an organization of conservative and libertarian lawyers who are dedicated to core constitutional principles and to upholding the rule of law.

As a conservative with an expertise in national security law, why did you find the President's statements last week about his willingness to accept opposition research from a foreign government so concerning?

Ms. CORDERO. Well, they are concerning because—so, first of all, in terms of the President's responsibilities as President, he is responsible for overseeing the national security of the United States. He has commander in chief responsibility.

Receiving foreign assistance has been recognized throughout the entire history of the country as something that is counter and undermines the Constitution. He has an oath that he is defending the Constitution.

There is no way that a President can or any official can willingly receive and indicate a willingness to receive foreign assistance, which we have not only constitutional principles that cut against receiving foreign assistance, they warn about foreign influence over our democracy. And Congress has passed statutes that try to provide transparency and get at the issue and uncover potential foreign influence on our democratic institutions and on Congress.

So his being willing to receive that foreign assistance, I think, is simply incompatible with his role.

Chairman NADLER. Thank you. And is it likely or plausible that the President's statements last week may encourage Russia or other foreign governments to engage in the same type of influence operations against our democracy in the next election?

Ms. CORDERO. Of course. They are paying attention. They are listening to everything that the President and his advisers and Members of this body say. So when he or anyone else indicates a willingness to receive foreign assistance, that is not just a signal, that is an invitation from a national security perspective to Russian intelligence and any other intelligence service that's out there that wants to try to find a way to influence our democratic processes.

Chairman NADLER. Thank you.

Professor Hasen, you've explained why providing opposition research to a political campaign counts as a campaign contribution or a thing of value for purposes of campaign finance law. In fact, don't campaigns often pay a great deal of money for opposition research?

Mr. HASEN. I should correct you that it is Hasen.

Chairman NADLER. Hasen. I'm sorry.

Mr. HASEN. The use of or the sale of opposition research or polling data has been found by the Federal Election Commission to count as a thing of value for purposes of the campaign finance laws, and giving it in-kind, if its value is over the value that is allowed as a contribution, can be illegal. That's been recognized by the FEC.

Chairman NADLER. Thank you.

So if a foreign government provides opposition research to a campaign for free, that can constitute a significant in-kind donation, correct?

Mr. HASEN. Yes, and the Mueller report noted it could be worth much more than some kind of dollar value contribution.

Chairman NADLER. Thank you.

You've also explained that U.S. law prohibits any foreign national from contributing to State or Federal election campaigns. You described a decision that then Judge Kavanaugh wrote in 2011 upholding the ban on foreign election contributions.

Is it fair to say that in that opinion, Judge, now Justice Kavanaugh described the United States as having a compelling interest in preventing foreign influence in U.S. elections?

Mr. HASEN. Yes. He recognized an interest in democratic self-government, and the Supreme Court thought the proposition was so obvious that it summarily affirmed his decision and didn't even schedule a hearing on the case.

Chairman NADLER. Did anybody in the court or on the Supreme Court disagree?

Mr. HASEN. No.

Chairman NADLER. Thank you.

Professor Prakash, although I disagreed with you on many other points, I'm in full agreement with your argument that the Constitution does not grant the President any privileges or immunities from prosecution. In fact, you say the Constitution does not grant the President, quote, "any sort of privileges or immunities."

Would you agree then that White House advisers cannot claim they're, quote, "absolutely immune," unquote, from having to testify before Congress based on a theory that they act as the President's alter egos?

Mr. PRAKASH. Chairman Nadler, I'll tell you what I tell my class. I agree with you 110 percent. But I think, unfortunately, administrations for the past several decades have claimed this privilege and Congress has been unable to stop them. So I agree with you that people who work for the President should be forced to testify before Congress.

Chairman NADLER. Except for when you can establish executive privilege, I assume.

Mr. PRAKASH. Well, I don't want to talk about executive privilege. But I am on the record as saying I don't believe there is an executive privilege, certainly not vis-a-vis Congress.

Chairman NADLER. Okay. My time has expired.

The ranking member, Mr. Collins.

Mr. COLLINS. Thank you, Mr. Chairman.

A couple of things that are concerning. One, I think this committee at times acts like a hypochondriac, we like to talk about the symptoms and not get into the disease.

I don't disagree with the three Democratic witnesses. This is what we should be doing. We shouldn't be having to hear from you that it should be. We've got bills actually in queue that we could be having this hearing on.

I'm glad you all are here today, but you don't need to be here. We're like hypochondriacs just talking about symptoms and there are actually cures out here that we can begin working on. We appreciate you being here, but it's absolutely adding nothing to getting anything done as we go forward, which concerns me.

Because this is very obvious from the opening statements here that—Mr. Chairman, we were under, again, the understanding this was to be an obstruction hearing, and as late—and we have emails to state to this—as late as 9 on Monday night, which could have had, you know, again, a better discussion of what you're wanting to discuss. And we could all still be hypochondriacs and talk about the symptoms when we could have scheduled even a markup to deal with bills that are actually in the queue.

So I just have a few questions here that we look at. One, I would like to ask each witness very quickly, when were you first contacted by committee staff about testifying at today's hearing? Starting, Ms. Cordero, with you.

Ms. CORDERO. I don't remember the date, Mr. Ranking Member. I think I've talked to staff—

Mr. COLLINS. When were you asked about appearing today? And give me a week, 2 weeks, whatever. Appearing today, actually today.

Ms. CORDERO [continuing]. At least—maybe—at least a week ago. I'm sorry, I don't remember the date. At least a week ago.

Mr. COLLINS. No problem. Just general is fine.

Ms. CORDERO. Yeah, at least a week ago.

Mr. HASEN. Saturday evening.

Dr. POLYAKOVA. Monday.

Mr. COLLINS. And I know when we contacted you, but go ahead and state it for the record.

Mr. PRAKASH. I believe Thursday or Friday of last week.

Mr. COLLINS. Okay.

You know, again, I think this is an interesting thing. And as the committee can work together on many things, I think the concern is, is that we have to be exceedingly, unfortunately, hostile or hide the ball on everything, and this is just not the way this one should be.

And it is very frustrating for us on this side, preparing for one thing, and finding out as late as—you know, for us not even finding out you were the ones who were going to be testifying until really basically Tuesday morning, and finding out some of you weren't even attached until this weekend, which says after we were told what was going to be happening they called you.

So this is a hide the ball problem, Mr. Chairman. It needs to not happen as we go forward.

One of the aspects, though, of this, going back to obstruction, was an interesting issue that we want to talk about. An important aspect of national security is maintaining secrecy of classified information, avoiding leaks, whether the leakers are foreign or domestic.

We know that Director Comey leaked internal FBI memos containing classified information to the media through Columbia Professor Richman.

Mr. Prakash, would you like to—would you consider that problematic?

Mr. PRAKASH. I don't know if the memo was classified, but, of course, if it was, it certainly would be problematic.

Mr. COLLINS. You know, as we have confirmed through the special counsel and the investigations and the evidence after his 2-year investigation of the no underlying collusion or crime, it is certainly—former Director Comey certainly did not have evidence of conspiracy, it was shown that, and that came out in the Mueller report.

So I find it especially troubling that Mr. Comey leaked documents to help—that helped spark, by many accusations, the appointment or influence of the special counsel's investigation.

If it would be so in the way he leaked this, would that—and we are discussing obstruction here—in doing so, could that leaking constitute an obstruction of justice?

Mr. PRAKASH. Mr. Comey was a private citizen when he leaked those memos. If he leaked them for a personal motive—namely, to get back at the President for firing him—under the special counsel's report, that would be a corrupt motive.

If, on the other hand, he did it out of public interest, that it wouldn't be, which of course is the problem with trying to figure

out whether something is corrupt or not, both for this factual pattern that you've suggested, but also for the President.

Mr. COLLINS. In looking at this—so the problem you just hit there was exactly the same thing that was discussed in the Mueller report and how this actually ended up, and, again, after it was passed on by the special counsel, given to the Attorney General and the Deputy Attorney General, who said it did not have corrupt motives, was mentioned there. And also basically took into account that they took no counsel from their own department, that they took that into consideration. They said, no, after looking at this, there's nothing there to charge.

The special counsel in his report spent a great deal of time discussing the episode related to Mr. McGahn writing a memo to the file. What is your view of this episode vis-a-vis obstruction, Professor?

Mr. PRAKASH. It entirely turns on whether the President thought that he was asking McGahn to create a false memo. And the report is equivocal on this point because, of course, the report doesn't know.

The President has forgotten things in the past. There's an episode from "Fear," the Bob Woodward book, where the President asks for a document to withdraw from the Korean-U.S. trade agreement. He gets it put on his desk. They snatch it back because they don't want him to sign it, his aides, and he forgets that he asked for it because he asked for it again and doesn't ask why it wasn't given to him.

So people are forgetful. It's quite possible that the President didn't realize that he had asked Don McGahn to have Special Counsel Mueller fired.

Mr. COLLINS. At this point in time, Mr. Chairman, like I say, we will continue this again. What could have been an actual productive markup of bills that actually could have went toward obstruction—not the obstruction, the election interference that we've talked about, the foreign interference that we have talked about that your three witnesses elaborated beautifully on. I'm glad they elaborated beautifully on it.

But we've already begun this process. I've already asked for it. We could have had a markup today. Instead, we're having a rerun. And especially, from our perspective, something that we could have participated in, in a different way. Our witness is here, and an excellent opportunity to do that, but not in the way that was done to us. And in the future, I would hope that we could communicate better in that regard.

With that, I yield back.

Chairman NADLER. I thank the gentleman.

The gentlelady from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. Mr. Chairman, thank you for holding this hearing. And certainly I acknowledge and thank the presence of the ranking member.

This is the task and job that is the responsibility of the United States Congress. And I want to thank the witnesses for their presence here. I want to be as close to my questioning time.

Mr. Prakash, did I hit it nearly?

Mr. PRAKASH. You both are 2 for 2. Perfect. Thank you.

Ms. JACKSON LEE. Let me thank you for your presence here today.

I wanted to just pick up on the executive privilege. My understanding of what you just said was that executive privilege should not be rendered as it relates to Congress. Is that correct?

Mr. PRAKASH. That's exactly right. I'm not sure there's an executive privilege at all, either vis-a-vis the courts or Congress. But I am more confident of my view vis-a-vis Congress.

Ms. JACKSON LEE. I appreciate that. We had a witness yesterday, Ms. Hope Hicks, and I believe it is certainly present in the media that there was a significant amount of executive privilege. And so you would characterize—you would raise questions about that?

Mr. PRAKASH. Well, I think, you know, Representative, my view is a minority viewpoint. It is certainly not held by the Department of Justice or the President's office. And that's true for Republican and Democratic Presidents. They both claim—

Ms. JACKSON LEE. Well, your view is a thoughtful view. And I would think that the exercise of executive privilege so extensively yesterday was an abuse of the rights of this Congress. And so I thank you for your addition to that to the record.

Let me ask this question of Ms. Cordero. In the report they talked about—and thank you—they talked about the idea of the involvement of Russia, and let me just read this to you.

First they talked about a Russian entity known as the Internet Research Agency carried out a social media campaign that favored Presidential candidate Donald J. Trump and disparaged Presidential candidate Hillary Clinton. The IRA's goals evolved from general attempts to sow political and social discord in the United States to targeted operation that by early 2016 favored candidate Trump.

Second, Russia's main intelligence directorate of the General Staff of the Russian Army, known as GRU, conducted computer intrusion operations against entities, employees, and volunteers working on the Clinton campaign and then released documents.

How damaging, troublesome, dangerous is that?

Ms. CORDERO. As the special counsel has said in the report and in his remarks that he gave at the Justice Department, this was a systematic intelligence operation against the United States, against our democratic processes.

And I would emphasize that according to current U.S. intelligence statements by intelligence community leaders, this is an ongoing issue. It's not just limited to the past, it wasn't just 2016, it's ongoing.

Ms. JACKSON LEE. But how dangerous is it in reflection of 2016 to have Presidential candidates and/or their operatives willingly and excitingly engaging with the extent? I mentioned intelligence agencies, I mentioned the GRU, of course, some of them were indicted. They have obviously not come back for prosecution. But how dangerous is that?

Ms. CORDERO. Well, it's really inconceivable that—

Ms. JACKSON LEE. And it is dangerous?

Ms. CORDERO [continuing]. A Presidential candidate would be willing to receive information that the campaign had reason to know was coming from Russian Government-supported efforts. In

other words, the work that is laid out in the special counsel's report has a variety of different examples of how the campaign knew it was coming.

It would have been more understandable had the campaign been able to say, "We didn't understand." But instead, there's a particular reference to Deputy Campaign Chairman Gates, where he told the special counsel, because it's in the report, that they actually were going to create a press strategy around the WikiLeaks releases. And there's a whole history of information about—

Ms. JACKSON LEE. Thank you.

Mr. Hasen, quickly, based on your knowledge, can the lines regarding what counts as coordination between campaign and outside group often become blurry? And this is based upon the relationship and the campaigns of 2016, in particular the Trump campaign.

Mr. HASEN. I don't understand the question.

Ms. JACKSON LEE. In election law questions about campaigns coordinating with outside entities often arise in the context of rules governing super-PACs and independent expenditures. Based on your knowledge, can the lines regarding what counts as coordination between a campaign and outside group often become blurry?

Mr. HASEN. Yes.

Ms. JACKSON LEE. And in that instance, would you look back on the 2016 Trump election and see the difficulty in what the Trump campaign was doing and its dangerousness?

Mr. HASEN. Well, in terms of the coordination with super-PACs, I think there's a general problem across both sides of the aisle with coordination between campaigns and outside groups that support them.

What's especially different with the Trump campaign was the potential for coordination with a foreign entity, which is something that we do not normally see in our—

Ms. JACKSON LEE. Should that be reported immediately, a duty to reported?

Mr. HASEN. I think it certainly would be good practice to report any attempt and to rebuff any efforts, and certainly to—and we don't know if this happened—to speak to the campaign's general counsel and alert them, who was Don McGahn at the time, and alert them that there's been an approach by a foreign entity that is trying to provide information to the campaign.

Ms. JACKSON LEE. I thank you.

Chairman NADLER. I thank the gentlelady.

The gentleman from Ohio, Mr. Chabot.

Mr. CHABOT. Thank you, Mr. Chairman.

Just a couple of points before asking some questions here.

First of all, the Russian interference that's been discussed here by the panel this morning, this didn't happen under President Trump's watch; this happened under President Obama's watch. It was the Obama administration that saw all this happen and had evidence of it, knew it was going on, yet did nothing. It was the Obama administration.

Secondly, relative to what was done wrong, whether there was collusion with the Russians, a lot of us, including myself, reserved our judgment until the Mueller report came in. Let's not forget that the Mueller report ultimately indicated that there was no collusion be-

tween Donald Trump or his campaign with the Russians. Secondly, the Attorney General concluded that there was no obstruction of justice.

Yet here we are again in another hearing relative to a matter which has essentially already been decided. We're wasting our time; we're chasing our tails. It is taxpayer money that's paying for all this.

It's really a faux impeachment, because, whereas the hardcore, hate Trump, Democrat base despises this President, wants him impeached, the Democrats still refuse to move forward on impeachment because they know that will blow up in their face politically. So we're having hearing after hearing after hearing about what? Really about nothing.

Last week, John Dean. Yesterday, Hope Hicks. Who are we going have to have next week? Sean Hannity? It's anybody's guess.

In the meantime, there are significant, real issues that are being ignored by this committee and this Congress.

For example, last month alone, 145,000 illegal immigrants flowed into this country—145,000 in 1 month. We're rapidly becoming a vast international territory between Mexico and Canada. Now, I need to attribute that to our committee scholar, Tom McClintock, who used that definition yesterday, and I think it's a good one, although it's unfortunate.

Another issue: We've got a \$22 trillion debt hanging over all our heads. This is the committee that could pass something that I've introduced, and that's a balanced budget amendment requiring to us do what every State has to do, balance its budget. But, no, we're not doing that.

We've got 70,000 people that died of opioid addictions last year. Are we devoting any attention to that? Not really. Certainly not enough.

Maybe we ought to be focusing on some of those real issues that really matter. Just a suggestion.

Professor Prakash, let me ask you this. This committee has spent a lot of time relitigating the Mueller report, as I just indicated, in fact, over and over. Democrats on this committee and in the media have promoted the narrative that not only has the President obstructed justice in relation to the Mueller investigation but the President is now allegedly obstructing Congress.

And just last week, Democrats approved a resolution that authorized lawsuits against Attorney General Barr and former White House Counsel Don McGahn to enforce subpoenas issued by Democrats on this committee. How would you assess the merits of such a lawsuit?

Mr. PRAKASH. Representative, I guess I'm on record as saying I don't believe that the President should be able to invoke privilege against Congress, and I have that view.

I don't think the courts will share that view. As you know, the courts have essentially required that Congress and the President negotiate over these claims of executive privilege and have then only reluctantly thereafter intervened.

Mr. CHABOT. So you think it's likely they're going to fail in the courts.

Mr. PRAKASH. I actually don't know whether they're going fail or not. You know, I don't know what the courts will say. But I do know that they seem to want to have you folks negotiate with the President first before they adjudicate the dispute.

My personal view about executive privilege, I happen to believe it's right, but it's just my personal view.

Mr. CHABOT. Okay. Thank you.

Many of the acts of alleged obstruction involve the President exercising his Article II authority, as you've mentioned. Can you explain the difficulty in finding corrupt intent to obstruct justice when the President is carrying out his Article II powers?

Mr. PRAKASH. It all turns on why you think he's doing what he's doing.

So, if the President thinks to himself, I'm having a difficult time interacting with foreign leaders because they can't take me seriously and they're worried about how long I'll be around, that is not a corrupt motive. The Mueller report says as much.

If, on the other hand, you think he's solely focused on his own skin and his own personal reputation, that would be a personal and, the report says, therefore, a corrupt motive.

Mr. CHABOT. Thank you.

I am also out of time, so let me get one more in here.

Relative to the President's power to remove executive branch officials, do you believe the President committed a crime when he fired James Comey?

Mr. PRAKASH. Absolutely not.

Mr. CHABOT. Okay.

My time has expired. I yield back.

Chairman NADLER. The gentleman's time has expired.

The gentleman from Tennessee, Mr. Cohen.

Mr. COHEN. Thank you, Mr. Chair.

I have noticed some constituents of mine from my ZIP Code, let alone my district, here. And I'm so happy they're here. Because they get to see what I have to put up with week after week after week: colleagues who come here and say that the Mueller report, which they obviously haven't read, says no collusion.

Mr. CHABOT. Would the gentleman yield?

Mr. COHEN. Collusion is not even mentioned—

Mr. CHABOT. Would the gentleman yield?

Mr. COHEN [continuing]. In the Mueller report.

Mr. CHABOT. I've read the report, and I think most of us have.

Mr. COHEN. Collusion is not even mentioned in the Mueller report. The issue was conspiracy. Number one.

Number two, it says no—the Mueller report said no obstruction. The Mueller report did not say that. The Mueller report said, if we could find that the President didn't commit a crime, we'd say that. And it said, we do not in any way exonerate him from committing obstruction of justice.

Mr. CHABOT. Would the gentleman yield?

Mr. COHEN. And we hear also—

Mr. CHABOT. I said the Attorney General said that.

Mr. COHEN. Would you hold him out of order? It's my time.

Chairman NADLER. The gentleman is out of order.

Mr. COHEN. And he says we have hearings about nothing. Hearings about nothing? Hearings about the Russians interfering with our elections that is in the Mueller report, that is the whole first half of it, and tells us that the Russians interfered with our elections? And we hear we're having hearings about nothing.

This is not 38112. This is not reality. This is the Judiciary Committee. And it's sad. The Russians did interfere.

Ms. Cordero, you said that the Russians did interfere, and you said that it would be disqualifying that a political team would craft a message around WikiLeaks or around the social media, and you said it's in conflict with the oath of office that the President takes to faithfully execute the laws of our Nation and taking that—and also taking foreign information on an election, which President Trump said he would do.

If this committee gets into an impeachment inquiry, do you believe these are areas that should be looked into?

Ms. CORDERO. Yes. I think if this committee were to initiate an impeachment inquiry, there is a variety of things that they could look into.

One of the most important would be the matters discussed in Volume II of the report. I think the special counsel's report lays out, at a minimum, four to potentially six acts of potential obstruction that the committee could continue.

The second probably most important thing that is in the report that the committee would want to look at is the prior campaign's willingness to receive foreign assistance, be the beneficiary of a foreign intelligence operation, and, almost more significantly, current statements indicating a current and future willingness to take that assistance.

Mr. COHEN. Thank you, ma'am.

Professor Hasen, you've said that the Mueller report said that opposition research was illegal. Do you have the—you said the Mueller report cited that taking opposition research from a foreign nation would be illegal. Is that correct?

Mr. HASEN. So I'm looking at the report on—it's pages—it starts on pages 184, 185. And then it talks about, going on to 186, Federal Election Commission rulings, so holding that opposition research counts as a thing of value. And from that, the report concludes that accepting it can be considered illegal.

Although it does note there's no judicial decision. That issue never came to a court, so there was no judicial decision holding that. But that's what the Federal Election Commission authority so holds.

Mr. COHEN. And if we had an impeachment inquiry, the Congress could certainly take that into consideration. Is that not true?

Mr. HASEN. Yes.

Mr. COHEN. And let me ask you this. If the report says, the Mueller report says, that taking opposition research is something of value and therefore illegal to take, if President Trump, who said he read the Mueller report, read it, would you presume, as Professor Prakash has said, maybe he just forgot that he read that? Or did he not read it? Because he obviously doesn't understand it.

Mr. HASEN. Well, I don't know what the President reads or doesn't read, but I can tell you that—

Mr. COHEN. I suspect the latter part of your answer is the most voluminous, what he doesn't read.

Dr. Polinka—Polyakova—

Dr. POLYAKOVA. Polyakova.

Mr. COHEN. I'm sorry. The Russian military was definitely involved in this, right?

Dr. POLYAKOVA. Yes.

Mr. COHEN. Would that have had to come from Putin? You mentioned the oligarch, but the oligarch wouldn't have done it on his own, would he?

Dr. POLYAKOVA. I would just correct to say that we know from the report that it was the Russian military intelligence arm that was involved.

It is my understanding, from how the Russian state functions, that there are several proxies that do the bidding of the Kremlin. And it is very likely that there was a guiding principle sent to various proxy agencies, including GRU, including Mr. Prigozhin, who is extensively mentioned in the report, to carry out an operation against the United States.

We don't know, because of various redactions, if Mr. Putin himself gave that order or not, but very likely he was very well aware of what was happening.

Mr. COHEN. Thank you.

And I yield back the remainder of my time.

Chairman NADLER. I thank the gentleman.

The gentleman from Ohio, Mr. Jordan.

Mr. JORDAN. Thank you, Mr. Chairman.

Professor Prakash, you got an undergraduate degree from Stanford, law degree from Yale, and you're a professor at the University of Virginia. It's not the Big Ten, but that's pretty darn impressive.

And your focus is on the Constitution. Is that right?

Mr. PRAKASH. Yes.

Mr. JORDAN. All right. So, about, I don't know, 10, 12 weeks ago, the Attorney General testified in front of the United States Senate, and the Attorney General said some interesting things.

He said, first of all, there was a failure of leadership—talking about the origins of the Trump/Russia investigation. He said there was a failure of leadership at the upper echelon of the FBI. We certainly know that's true. Everyone who ran the FBI in the Obama administration has been fired, demoted, or left, and two are under investigation by the Justice Department.

He then said spying occurred. He said it twice.

Third, he said there was a basis for his concern about the spying that took place—namely, was it properly predicated.

And, finally, he used two terms that I think should frighten every single American citizen. He used the term “unauthorized surveillance” and “political surveillance.”

Are you troubled by or concerned by, as a constitutional law professor, concerned by some of the things that the Attorney General raised in his testimony a few weeks back in front of the Senate?

Mr. PRAKASH. Representative Jordan, I don't know—and I wasn't here to talk about that. But, of course, I think everybody ought to be troubled by the prospect that the tools of investigation might be

turned against opponents. Of course, if this administration did this to the Democratic nominee, I would be troubled by that as well.

Mr. JORDAN. So would I.

Mr. PRAKASH. Of course, I agree with the Attorney General. The question is whether it was, you know, adequately predicated.

Mr. JORDAN. Well, let me give you a couple things we do know. Bruce Ohr worked at the Justice Department. When we deposed him, he told us a few interesting things about the now-famous dossier. Specifically, he told us that he had informed the FBI that the Clinton campaign paid for the dossier.

Second, he told us that Steele was biased against the President, so much so that Steele had conveyed to him and he had conveyed to the FBI that he was desperate to stop Trump from getting elected.

Third, he told them that Fusion GPS worked with Steele to put this dossier together, who was the entity directly hired by the Clinton campaign.

And, finally, fourth, he told him his wife worked for Fusion GPS.

And we know that, when the FBI went to the secret court, the FISA court, they didn't convey any of those four important facts to the court. Does that trouble you, Professor?

Mr. PRAKASH. Yes, it does.

Mr. JORDAN. Care to elaborate?

Mr. PRAKASH. Well, I think, look, if the political polarities had been reversed, I think other people would be quite disturbed by the sequence of events, right? That is to say, if it had been a Democratic administration—sorry—a Republican administration that started this investigation in part based on a foreign dossier paid for by political operatives, I think, you know, the other party would be quite upset.

So I think it merits investigation as to, you know, why this investigation, why this, you know, surveillance or spying, if you will, began.

Mr. JORDAN. Let me ask you about one other statement made by Democratic Senator Schumer on January 3, 2017, talking about President-elect Trump and talking about the intelligent community. Then the highest ranking Democrat in the United States Congress said this: "When you mess with the intelligence community, they have six ways from Sunday at getting back at you."

Does that statement trouble you? When you think about how our constitutional system and unelected bureaucrats are supposed to answer to elected officials, elected by we, the people, does that trouble you, Professor?

Mr. PRAKASH. It does. In my written testimony, I say there are portions of the Mueller report that suggest that any involvement by the President in ongoing investigations is impermissible or improper, and I think that's a mistake. I don't think it's possible to say that all such involvements are impermissible.

So I think it's a mistake to threaten a sitting President with the use of official resources as a means of retaliation against the President for looking into possible wrongdoing.

Mr. JORDAN. Yeah. Last time I checked, Peter Strzok and Lisa Page never had their name on a ballot. They were never elected to anything. Yet they ran the two most important investigations that,

frankly, in my time in Congress, I have been—I've seen. Their name was never on a ballot.

How about this statement? How about when Emmet Flood wrote the Attorney General of the United States and said this? "We would all do well to remember, if they can do it to a President, imagine what they can do to you and I."

That's what scares me more than anything else. If the intelligence community can do what I suspect they did and I think they did—and I believe more and more evidence points to it—and this is what the Attorney General and John Durham, U.S. Attorney, are now looking into—if they can do this to a President of the United States, they can do it to anyone in this country.

And that's what I believe, Professor, this committee should be primarily focused on.

Think about, the President was falsely accused of conspiracy with Russians to influence the election. Do we investigate how that false accusation happened? Or do we continue to investigate something Bob Mueller spent 22 months on and came back with no collusion, no conspiracy, no coordination?

And, frankly, it wasn't just 22 months, because when Jim Comey was deposed by us last Congress, we asked him this question; he said after 10 months of the FBI's investigation they had zero evidence.

So, after 32 months of investigating something, zero evidence of it. And yet this committee wants to continue to go down that road versus maybe looking into how this whole thing began in first place.

And there was a question in there somewhere, Professor, if you want to respond.

Mr. PRAKASH. I wouldn't presume to tell this committee what it ought to do, but I support the Attorney General's investigation as to why this whole process began.

Mr. JORDAN. Thank you.

I yield back.

Chairman NADLER. Thank you.

I would remind the gentleman that the investigation was not predicated on—it's well-established the investigation was not predicated on the Steele dossier but, rather, on the testimony—on the observation of Mr.—

Mr. JORDAN. I don't think I said that. I think I asked the constitutional law professor if that was what appropriate, to—

Chairman NADLER. The gentleman does not have the time.

Mr. JORDAN [continuing]. Do what they did in front of the FISA court.

Chairman NADLER. The gentleman—

Mr. JORDAN. I didn't ask him whether it was predicated—

Chairman NADLER. The gentleman does not have the time at a moment.

Mr. JORDAN. I'm responding to what you just said—

Chairman NADLER. You're not responding, because I'm in the middle of saying something.

Mr. JORDAN. You already said something, and I'm responding.

Chairman NADLER. I would remind the gentleman of three things.

One, the investigation was predicated on the incident with George Papadopoulos.

Two, that the Steele dossier, insofar as it was used in the application to the FISA court, the FISA court was informed in the memo that the information in the dossier was unreliable and came from a—

Mr. JORDAN. That's laughable.

Chairman NADLER [continuing]. From a source that was paid for by the Clinton campaign. And—period.

I recognize the gentlelady from California.

Mr. BIGGS. Parliamentary—

Ms. LOFGREN. Thank you, Mr. Chairman.

Mr. BIGGS [continuing]. Inquiry.

Chairman NADLER. The gentlelady from California is recognized.

Mr. BIGGS. Parliamentary inquiry.

Ms. LOFGREN. In my time you're making a parliamentary inquiry?

Mr. BIGGS. I had stated it before you started, Ms. Lofgren. I'm sorry. But I'd request a parliamentary inquiry.

Chairman NADLER. The gentleman will state a parliamentary inquiry.

Mr. BIGGS. My inquiry is this. Is the chairman going to permit himself to rebut every Republican who's asking questions or making statements in the remainder of this hearing?

Chairman NADLER. No, not every.

The gentlelady from California.

Ms. LOFGREN. Thank you, Mr. Chairman.

I have some questions, but I do want to address the issue that was just raised. I do think it's important to note footnote 465 that basically says that the foreign government conveyed information to the U.S. Government that really was the origin of this investigation.

And I will also say this. I don't know how many people, other than myself, have read the entire FISA application that was provided to the Congress in the last Congress, but I did. And they provided not only the FISA application but all of the underlying evidence that was provided to the court. And I started reading it at 9:00 in the morning, and I ended up canceling my entire day because it took me until 5:00 p.m. to read the entire application. And I would just suggest to members who have not read the FISA application that it would be advisable to do so before suggesting that there were improprieties.

Now to the questions that I have.

You know, we've talked a lot about Volume II of the report, and there are concerning matters there, certainly. But I am concerned about some of the report—much of it is redacted, as we know, and I look forward to seeing the redactions and the underlying evidence.

But there were a substantial number of contacts between the Russian Government and the Trump campaign in a way that—I mean, I've been involved in campaigns before. I've never seen anything like this.

As we configured, in the report, it talks about 170 contacts between the Russian Government, 28 meetings between the Russians

and the Trump campaign. And if you take a look at indictments and other publicly available information, I think you can identify—and there may be more, but—272 contacts between the Russians and 38 meetings. That's just weird. I mean, I've never seen anything like that in any campaign I've ever been involved in.

And I'm just wondering—Dr. Polyakova, you are an expert on Russian affairs. Doesn't that indicate—I mean, that wouldn't happen without the Russian Government countenancing that. Because that's a high-profile risk, for Putin to interfere in the government of others. It could lead to a whole set of ramifications if it ended up being a losing proposition. This was a high-risk effort, I think. If I'm wrong, you'll tell me.

Wouldn't that have to be a product of a strategy by the Russian Government?

Dr. POLYAKOVA. Absolutely. As I say in my written testimony, what comes out very clearly in the Mueller investigation and additional independent reporting and also various statements from our own intelligence community is that there was a strategic intent to infiltrate and gain political access to the Trump campaign.

Ms. LOFGREN. I want to talk about the—one of the things that I just can't get out of my mind is that the campaign chairman, Mr. Manafort—and he has an excuse. He was trying to, you know, cozy up to former sugar daddy in the Ukraine—but that he gave sensitive internal polling data not once but multiple times, and he had his assistants do the same, to operatives, Russian operatives, Mr. Kilimnik, and at the same time that Kilimnik and the Russian military were buying ads and doing a propaganda campaign to influence the electorate in those same States to benefit Trump.

It strikes me that having that kind of internal polling data as a show of good faith is unusual.

I don't know if, Professor Hasen, whether you have enough familiarity in the running of campaigns to say that that would be kind of an odd thing to do.

Mr. HASEN. I'm not on the campaign side. I'm on the law side. So I can't—

Ms. LOFGREN. Can anybody?

Ms. Cordero?

I mean, we don't have an election manager here, but it strikes me—I mean, I've been involved in many, many, many campaigns. I've never seen anything like that.

Has any one of you taken a look at the role that the Russian military played in supporting third-party candidates through their social media efforts?

Dr. Polyakova, have you looked at that?

Dr. POLYAKOVA. In the United States specifically?

Ms. LOFGREN. Yes.

Dr. POLYAKOVA. I have not seen other evidence, mainly because in open source that's very difficult to do. We really need information from the intelligence community. And that is why the Mueller report is the most comprehensive research on that matter.

Ms. LOFGREN. I'll just say this, that there were thousands of tweets really aimed at millennials and African American voters, urging them to support the Green Party candidate and criticizing the candidacy of Hillary Clinton.

Finally, I'll say that the—my colleague Sheila Jackson Lee talked about Chairman Gates was going to do press strategy with the WikiLeaks release. Wasn't the WikiLeaks release coordinated with Russia, in your judgment, Dr. Polyakova?

Dr. POLYAKOVA. It is correct that Russian agents, under the guise of Guccifer 2.0 and DCLeaks, did coordinate the release of the stolen information with WikiLeaks. It also seems clear from the Mueller investigation that members of the campaign were eager to publicize that information when it came out.

Ms. LOFGREN. My time's expired, Mr. Chairman. Thank you for your indulgence.

Chairman NADLER. I thank the gentlelady.

The gentleman from Texas, Mr. Ratcliffe.

Mr. RATCLIFFE. I thank the chairman.

In the Mueller report, Special Counsel Mueller details what he calls a sweeping and systematic effort to influence the 2016 election by the Russian Government.

Those details are largely set forth in two separate indictments, one identifying 12 Russian hackers associated with the GRU and 13 Russian individuals and 3 organizations, part of the Internet Research Agency.

Some of the witnesses, including Ms. Cordero and Professor Hasen, provided an accurate summary of that systematic and sweeping effort by the Russian Government.

Ms. Cordero, did the special counsel find that that sweeping and systematic effort by the Russian Government to influence our elections—did the special counsel find that began before or after Donald Trump's entry into the 2016 Presidential field?

Ms. CORDERO. The indictments and information in the report, but particularly the indictments of the Russian intelligence officers, indicate that the Russian influence effort predated—

Mr. RATCLIFFE. Predated. Thank you.

Ms. CORDERO. It went back—

Mr. RATCLIFFE. My time's limited, but thank you. So the answer is: before Donald Trump entered the field.

And so, Ms. Cordero, let me ask you. On October 21, 2016, the Obama Justice Department submitted a FISA application to surveil a Trump campaign associate named Carter Page. And as part of that application, FBI Director Comey and Deputy Attorney General Sally Yates signed a verified application that included the now-infamous, unverified, uncorroborated Steele dossier, which specifically states that there was a, quote, well-developed conspiracy between the Trump campaign and the Russian Government.

Ms. Cordero, did the special counsel find that there was a well-developed conspiracy between the Trump campaign and the Russian Government?

Ms. CORDERO. So the special counsel analyzed conspiracy under criminal conspiracy law. And so, under criminal conspiracy law, the special counsel did not find that there was a tacit or implicit—

Mr. RATCLIFFE. Thank you.

Ms. CORDERO [continuing]. Agreement between the campaigns.

Mr. RATCLIFFE. I appreciate that. So no conspiracy.

So, Professor Hasen, I actually agree with you when you talk about the goal of the Russians to sow discord into the American democratic republic.

And despite the fact that Special Counsel Mueller found that neither Donald Trump or anyone associated with his campaign conspired or colluded or was successful in any way in meddling in the 2016 Presidential election, it's hard to argue that Russia wasn't successful in that ultimate goal of sowing the seeds of discord, because our country just endured a 2-year investigation to determine whether or not the President of the United States was part of a treasonous conspiracy with a foreign adversary to steal an election—an investigation that was started by the Obama administration, who started an investigation into a conspiracy that the special counsel has now conclusively and unequivocally established never existed.

So, since the purpose of this hearing is to talk about the lessons learned from the Mueller report, let's talk about those lessons and the factors that contributed to Russia's success.

One of the factors that contributed to Russia's success was the Obama administration opening a probe into the Trump campaign using foreign counterintelligence spying powers to investigate a conspiracy that, again, the special counsel conclusively determined did not exist.

Another factor that contributed to Russia's success was the Obama administration's intelligence community assessment, which was used to tell the American people that, not only did Russia interfere in the election, but did so because Vladimir Putin was trying to get Donald Trump elected.

Another factor was the one I just mentioned: the Obama administration's use of FISA warrants obtained through verified applications based on the unverified Steele dossier, which the Obama DOJ and FBI knew to be an uncorroborated Clinton campaign opposition research document. That might have contributed to Russia's success.

And, of course, we have the Obama administration officials, some now under investigation for leaking information, perhaps classified information, falsely depicting a Trump/Russia collusion conspiracy that never existed.

So I love talking about the Mueller report. I'm just wondering when my colleagues on the other side of the aisle are going to start asking questions about why Bob Mueller spent \$40 million and had 60 people working around the clock for 2 years asking questions about President Trump and a conspiracy that never existed instead of spending some of that time asking about President Obama and how all of this got started.

I'm done.

Chairman NADLER. The gentleman's time has expired. The witness may answer the question.

Mr. HASEN. What was the question?

Chairman NADLER. I don't know.

Mr. HASEN. I'll take a pass. Thank you.

Chairman NADLER. The gentleman from Georgia, Mr. Johnson, is recognized.

Mr. JOHNSON of Georgia. Thank you, Mr. Chairman.

And I want to thank the witnesses for appearing here today.

And, Professor Prakash, you are the James Monroe Distinguished Professor of Law at the University of Georgia, having before that served as a clerk for the court of appeals of the Federal court, D.C. Circuit, and also having joined the ranks of those distinguished persons who have had the honor of serving as a United States Supreme Court law clerk. Is that correct?

Mr. PRAKASH. For the record, Representative, I'm a Cavalier, not a Bulldog.

Mr. JOHNSON of Georgia. Okay. Well, you are—that's—I'm not going to hold that against you.

But the point I'm making is that you have a distinguished career. And you actually majored in political science and economics at the University of—at Stanford University. And you obtained your law degree, and you teach constitutional law and foreign relations law to young students now, do you not?

Mr. PRAKASH. Yes.

Mr. JOHNSON of Georgia. And you've read part one of the Mueller report, have you not?

Mr. PRAKASH. I'm sad to say that I have not.

Mr. JOHNSON of Georgia. You have not. So you—but if you—you've heard a little bit about it, though, haven't you?

Mr. PRAKASH. Yes, Representative.

Mr. JOHNSON of Georgia. And you understand that the Mueller report makes the case that the Trump campaign knew about Russian attempts to help it win the campaign.

Mr. COLLINS. Point of order. And I want his full time—I want Mr. Johnson to have his full time. I'm not trying to stop his time or his witness. But this brings up an interesting point that I have tried to bring up since the beginning about our notification of this hearing and the purpose of this hearing.

Our witness has stated up front that he was here because we were supposed to do an obstruction hearing, part two.

Mr. JOHNSON of Georgia. I—

Mr. COLLINS. Now, Mr. Johnson, I appreciate your—I'm not trying to argue with you now. I want your time completely.

But it should be at least understood, Mr. Chairman, that this, again, going back to my earlier statements today, this was not communicated to us, Mr. Chairman. And I think it's unfair to the witness to comment on a part of the report that he was not brought here to comment on.

If we want to do this, fine. I'm not trying to stop his time. He can have as much time as he wants. But this is something that need to be addressed, Mr. Chairman, as we go forward.

Chairman NADLER. That is not a point of order. The witness can—

Mr. COLLINS. It was not intended to be a point of order.

Chairman NADLER. You said it was a point of order.

Mr. COLLINS. Okay. It was a colloquy with the chairman. A colloquy with the chairman.

Chairman NADLER. Fine.

The witness may answer the question to the best of his ability.

Mr. COLLINS. Is the chairman not going to engage me on this?

Chairman NADLER. No.

Mr. COLLINS. The chairman is—this is not fair.

Mr. COHEN. Not fair? You're out of order.

Mr. PRAKASH. Representative, I'm not in a position to comment on what part one might have said. I—

Chairman NADLER. He gentleman's time will resume.

Mr. JOHNSON of Georgia. I will rephrase my question to you, Professor. You would admit that it would be wrong for a Presidential campaign to accept offers of foreign assistance.

Mr. PRAKASH. Representative, I—

Mr. JOHNSON of Georgia. Is that wrong, or is that right?

Mr. PRAKASH. I wish to be on the record as saying I'm opposed to foreign assistance both for Democratic nominees and for Republican nominees. It is sad to say that both took—

Mr. JOHNSON of Georgia. Reclaiming my time.

Mr. PRAKASH [continuing]. Foreign—

Mr. JOHNSON of Georgia. Reclaiming my time. You would also agree with me that it is wrong for a President to say that he would accept help for his reelection from a foreign government. That's wrong, isn't it?

Mr. PRAKASH. I think it's wrong to say it, and I think it's wrong to do it, and I think both—

Mr. JOHNSON of Georgia. And you would condemn it—

Mr. PRAKASH [continuing]. Campaigns did it.

Mr. JOHNSON of Georgia [continuing]. Would you not?

Mr. PRAKASH. I just said it was wrong, so—

Mr. JOHNSON of Georgia. You would not condemn it, however?

Mr. PRAKASH. I'm happy to use the word. I condemn it.

Mr. JOHNSON of Georgia. Okay. All right. Thank you.

Now, going on to Professor Cordero, in your experience as a national security lawyer, would it be reasonable to open an investigation such as the Russian influence investigation when a foreign government reports to the authorities that a Trump campaign official has stated that he has information that Russia has dirt that it wants to share with the Trump campaign? Do you think that serves as an adequate basis to open an investigation?

Ms. CORDERO. Yes. So there are guidelines. There are Attorney General guidelines for domestic operations for the FBI, and they have to follow those guidelines. There has to be a predication. They have to have information. And information from a reliable foreign government—

Mr. JOHNSON of Georgia. And that information—

Ms. CORDERO [continuing]. That predicates that would justify opening a counterintelligence investigation.

Mr. JOHNSON of Georgia. And that information came to the attention of the U.S. authorities on July 26—excuse me—on May 6, 2016. And it was not until October of 2016 that the Federal authorities were made aware of the Steele dossier.

So are you aware of the fact that the investigation, the counterintelligence investigation, into the Trump campaign activities began prior to the Steele dossier being revealed to the Federal authorities?

Ms. CORDERO. Congressman, I have to say, I think that the—I'm only able to go on information that's in the report and that's pub-

licly available. And it is not altogether, I think, clear exactly when which investigations were opened. There are certainly——

Mr. JOHNSON of Georgia. Well, I would argue with you that it is clear in the report, in the Mueller report, that the Steele dossier came to their attention after the information came in from the foreign government that George Stephanopoulos—excuse me—George——

Ms. CORDERO. Papadopoulos.

Mr. JOHNSON of Georgia [continuing]. Papadopoulos was going around in a drunken fit, talking about Russians having information, dirt on Hillary Clinton.

Ms. CORDERO. Yes.

Mr. JOHNSON of Georgia. And, with that, I will yield back.

Ms. CORDERO. I agree. There's not—I don't think that the report indicates that the Steele dossier was the basis for the opening of the investigation.

And based on everything that is now apparent from the report about the systematic activities by the Russian intelligence agencies and how that information would have come in, there is substantial information that would've justified opening this counterintelligence investigation. And, in my judgment, it would've been a dereliction of duty for them not to investigate.

Mr. JOHNSON of Georgia. Thank you.

I yield back.

Chairman NADLER. The gentleman yields back.

The gentleman from Florida, Mr. Gaetz.

Mr. GAETZ. Thank you, Mr. Chairman.

Mr. Chairman, are you going to subpoena Robert Mueller? I'll yield to you to answer.

Chairman NADLER. I'm not going to answer that at this time.

Mr. GAETZ. Well, we're here in part two of "Lessons from the Mueller Report," and so I'm wondering how we're going to learn those lessons. During part one of "Lessons of the Mueller Report," we brought in John Dean to reexamine the Nixon impeachment. Perhaps during part two we'll get to the impeachment of Andrew Johnson.

Maybe the folks here could teach us some lessons.

For the witnesses, so that we don't have to individually go through, here is the question. And raise your hand if you would answer this in the affirmative.

Do any witnesses here have personal knowledge regarding the truth or falsity of a single material fact in the Mueller report? If you have personal knowledge regarding the truth or falsity of a single material fact, just raise your hand, so I can figure out who to ask the question to.

So the record can reflect no witnesses have raised their hand. No witnesses have any personal knowledge regarding a single fact in the report. No witnesses last week had personal knowledge.

Ms. SCANLON. Will the gentleman yield?

Chairman NADLER. Would the gentleman yield?

Mr. GAETZ. Well, I'll certainly yield to the chairman, because I'm eager to——

Chairman NADLER. I would remind the gentleman that there is an ongoing controversy that the White House is asserting the right

to prohibit the testimony of any witness with regard to anything that happened——

Mr. GAETZ. I'm going to reclaim my time.

Chairman NADLER [continuing]. Since he was President.

Mr. GAETZ. I fully understand and appreciate that, Mr. Chairman. There is no——

Chairman NADLER. Would the gentleman yield to——

Mr. GAETZ. I will not, because I want to respond to the chairman's assertion.

The person over whom the White House can assert no privilege is Robert Mueller. And you have the power to subpoena Robert Mueller. You have used subpoena power extensively in this committee, and you won't subpoena the person who wrote the report.

And so this hearing should not be entitled "Lessons from the Mueller Report." It should be entitled "Hot Takes from the Mueller Report," because what we're getting are people who have no knowledge of the facts, no information as to the underlying information. They're just reading it and offering their analysis and their hot takes.

But I think that there is a far more critical issue that our committee should be addressing and that we could address. Right now, we're at a circumstance where upwards of 5,500 people are arriving every day on our southern boarder. And this committee has the jurisdiction to reform our asylum laws, to secure the border, to make changes to ensure that we have a country that's protected and a rule of law that's maintained.

Fortunately, actually, one of our witnesses is somewhat of an expert on this subject.

Ms. Cordero, you are——

Mr. BIGGS. Mr. Chairman, the committee is not in order.

Chairman NADLER. I'm sorry. Did someone say a point of order? What?

Mr. BIGGS. Mr. Chairman, I said the committee is not in order.

Chairman NADLER. Oh.

The committee will be in order.

Mr. GAETZ. Ms. Cordero, you are somewhat of an expert on the activities that go on on our southern border, aren't you?

Ms. CORDERO. I do some work related to national security and homeland security in my capacity as a senior fellow, yes.

Mr. GAETZ. And in 2013, for Georgetown, you wrote an essay entitled "Breaking the Mexican Cartels: A Key Homeland Security Challenge"——

Mr. JOHNSON of Georgia. Now, Mr. Chairman, at this time, I'm going to interrupt and say that this hearing about part one of the Mueller investigation, and it's not about——

Mr. GAETZ. I wish it was about the Mueller report. I really wish it was, Mr. Johnson.

Mr. JOHNSON of Georgia [continuing]. Down at the border.

Chairman NADLER. The gentleman——

Mr. GAETZ. They don't know anything about the Mueller report.

Chairman NADLER. The gentleman will suspend.

The gentleman proceed. The gentleman has the time.

Mr. GAETZ. You wrote, "Breaking the Mexican cartels is no easy feat but is a necessary one to secure our southern border, eliminate

the presence of dangerous cartels in our cities, reduce Americans' contribution to the drug trade and resulting violence, and play our role in restoring the Mexican citizenry to a free society from daily terror."

Is it your impression that, since you wrote this in 2013, that the circumstances on our southern border have gotten better or worse?

Chairman NADLER. I will—excuse me. The gentleman will suspend.

Since this does not reflect—this has nothing to do with part one or Volume I or Volume II of the Mueller report or anything conceivably—

Mr. GAETZ. But, Mr. Chairman—

Chairman NADLER [continuing]. Or anything conceivably within the ambit of this hearing, of the notice of this hearing, the witness may or may not reply at his or her discretion.

Ms. CORDERO. I'm happy to respond, Congressman.

When I wrote that report, I thought that it was an issue that needed attention. It was not, in the beginning of the Obama administration, something that I think did get sufficient attention. There clearly is a changed circumstance. We are in 2019 now. There is clearly a humanitarian problem on the southern border that needs to be addressed.

What you will not find in that article is any mention of a wall as a response to that challenge nor any encouragement of the use of emergency authorities to solve the problem.

Mr. GAETZ. I understand that, but you recognized the crisis. You recognize that it's worse. And I acknowledge that the wall may be something that divides us. But reforming our asylum laws, ensuring that we've got—

VOICE. You're done.

Mr. GAETZ [continuing]. The supplemental appropriation in place to make sure—

VOICE. You're done.

Mr. GAETZ [continuing]. People aren't dying on our border and reducing the terror you write about is a lot more—

VOICE. Regular order.

Mr. GAETZ [continuing]. Important than hearing from—

Chairman NADLER. The time of the gentleman—

Mr. GAETZ [continuing]. People that know nothing about the Mueller report—

Chairman NADLER. The time of the gentleman—

Mr. GAETZ [continuing]. Purport to give lessons on the Mueller report.

Chairman NADLER. The time of the gentleman has expired.

Mr. GAETZ. Mr. Chairman, you guys take way more than your allocated time—

Mr. COHEN. Point of order.

Mr. GAETZ [continuing]. And then you take my time and impose on it and then restrict it.

Chairman NADLER. The gentleman will suspend.

Mr. GAETZ. This is a total farce, and it's no wonder witnesses don't want to come here and testify to this committee.

I yield back.

Ms. CORDERO. I'd be happy to come back and talk about homeland security at another time.

Chairman NADLER. And we may invite you at some other time. The gentleman has yielded back.

Mr. COLLINS. Maybe Homeland Security will invite you.

Chairman NADLER. The gentleman has—

Mr. JOHNSON of Georgia. Point of order, Mr. Chairman.

Chairman NADLER. The gentleman will state his point of the order.

Mr. JOHNSON of Georgia. Is the other side permitted to impugn the character and badger witnesses?

Chairman NADLER. Nobody is permitted to impugn the character or badger witnesses.

The gentleman from Florida, Mr. Deutch.

Mr. DEUTCH. Thank you, Mr. Chairman.

I'd like to answer Mr. Gaetz's question, how are we going to learn the lessons of the Mueller report? How are we going to learn from people with personal knowledge or material—personal knowledge?

The answer to that is, we have material witnesses, people who actually are the subjects of the Mueller report. Unfortunately, we haven't been able to do that, Mr. Gaetz—and you know well that that's the truth—because this administration has tried to exercise this blanket immunity that doesn't exist that has prevented us from holding exactly the kind of hearings that you claim that you desire.

So, yesterday, the committee saw a continuation of that unprecedented obstruction when Hope Hicks came in. She's mentioned over a hundred times in the Mueller report. Congress has the authority to interview her about her time in the White House. But, instead, there is this blanket immunity claim over her and every other White House employee.

That's nothing short of stonewalling our efforts, which, perhaps, Mr. Gaetz, you and I can work together to convince the administration and the President that it is in the best interest of the American people to hear from people, a whole panel of them, from the administration who can actually respond to questions.

Let me finish.

Mr. GAETZ. Would the gentleman yield?

Mr. DEUTCH. No, I will not.

We can't get interviews. We can't get Mueller's files. We can't get an unredacted Mueller report. We can't hold hearings with material witnesses. It is obstruction, plain and simple.

Yesterday, Ms. Hicks could not even answer whether she told the truth to the Mueller team, because the President's lawyers objected to the question.

This committee must be the allowed to continue its work and to have witnesses who can answer the questions.

I look forward, Mr. Gaetz, to working with you to implore the President to stop using this nonexistent blanket immunity.

Mr. GAETZ. Will the gentleman yield—

Mr. DEUTCH. I will not.

Mr. GAETZ [continuing]. So that work can begin?

Mr. DEUTCH. I will not because I have work to do.

The Mueller report—Professor Hasen, the Mueller report details more than 170 contacts between the Trump campaign and Russians. I want to focus on the orchestration of the June 2016 meeting in Trump Tower.

On page 110 of Volume I, it states that, and I quote, “on June 9, 2016, senior representatives of the Trump campaign met in Trump Tower with a Russian attorney, expecting to receive derogatory information about Hillary Clinton from the Russian Government.”

Then it goes on to quote the email, in which it says, “The crown prosecutor of Russia met with his father, Aras, this morning and, in their meeting, offered to provide the Trump campaign with some official documents and information that would incriminate Hillary in her dealings with Russia and would be very useful to your father. This is obviously very high-level and sensitive information but is part of Russia and its government’s support for Mr. Trump.” That was in the Mueller report.

Then we heard the President just last week say, if someone, a foreign government approached, he said, and I quote, “I think you might want to listen. There isn’t anything wrong with listening. If someone called from a country, Norway, ‘We have information on your opponent,’ I’d think we’d want to hear it.”

The President denied that it was interference. He said, “It’s not interference. They have information. I think I’d take it. If I thought there was something wrong, I’d go maybe to the FBI if I thought there was something wrong.”

Last week, that prompted the following statement from the Chair of the FEC, saying, “Let me make something 100 percent clear to the American public and anyone running for public office. It is illegal for any person to solicit, accept, or receive anything of value from a foreign national in connection with a U.S. election. It’s not a novel concept.”

It goes on to say that “anyone who solicits or accepts foreign assistance risks being on the wrong end of a Federal investigation. Any political campaign that receives an offer of a prohibited donation from a foreign source should report that offer to the FBI.”

Professor Hasen, the foreign solicitation statute seems to be right on the mark. Did the Mueller team go far enough in exploring this?

Mr. HASEN. I believe the Mueller team did not go far enough in exploring this.

In particular, one of the bases on which it decided to decline to prosecute any Trump campaign officials at the Trump Tower meeting was lack of evidence of willfulness. In order to be prosecuted for this kind of crime, you have to know that you’re violating the law.

The report says that Donald Trump, Jr., had failed to voluntarily speak to Mueller. And then Mueller did not subpoena him to appear before a grand jury to answer questions under oath about what he knew at the time. I think that was a mistake, and it could have come out differently had he done so.

Mr. DEUTCH. And, Ms. Cordero, after the President’s comments, you tweeted, “It likely would be a campaign law violation to receive information from a foreign government, but that’s not the point. The point is it’s wrong, it’s immoral, and it’s contrary to U.S. na-

tional security interests. And for a sitting President, it violates his oath of office.”

That’s a strong reaction. Can you share why you believe accepting foreign help in an election violates the oath of office?

Ms. CORDERO. Because it’s a foundational issue. It goes back to what the Founders say. It goes back to mention of foreign influence. We can go back in my statement. I cite in my written statement for the record, I cite to Washington’s farewell address that warned of foreign interference.

And so it is—so that’s my view. My view is stated in the statement that I made there, that it is contrary to a President who is supposed to adhere and has an oath to the Constitution.

And I would add that that is why the information in Volume II, the obstruction discussion, is so important. Because it matters what the allegations of obstruction are about.

The report lays out a variety—a series of potentially obstructive acts that the President took to derail the special counsel’s investigation. And the special counsel’s investigation was about Russian foreign interference.

So the very acts that are described are—what was he obstructing? He perhaps thought that he was obstructing potential inquiry into matters that would affect him or his inner circle personally, but what he actually was obstructing was the Federal Government’s investigation into Russian interference.

Mr. DEUTCH. Thank you very much.

I yield back.

Chairman NADLER. The gentleman’s time has expired.

The gentleman from Louisiana, Mr. Johnson—no?

I’m sorry. The gentleman from California, Mr. McClintock.

Mr. MCCLINTOCK. Thank you, Mr. Chairman.

Professor Prakash, I want to touch on something the ranking member mentioned. James Comey has admitted to leaking classified FBI documents to a Columbia University professor in order to influence an investigation. Under what circumstances would that be a crime?

Chairman NADLER. Mr. McClintock, could you use your mike a little more?

Mr. MCCLINTOCK. The mike’s on.

Mr. PRAKASH. I heard the question.

If Mr. Comey, his motive was to get back at the President, that would be, under the Mueller report, an improper motive, a corrupt motive, and he’d be guilty of obstruction of justice.

If, on the other hand, his motive was I want to make sure that, you know, something bad doesn’t happen to the ongoing investigation, it wouldn’t be obstruction of justice.

Mr. MCCLINTOCK. It’s alleged that Hillary Clinton willfully destroyed 30,000 emails under subpoena. Under what circumstances would that be a crime?

Mr. PRAKASH. Representative, I—you know, I—to me, this—you know, I don’t know enough about that to comment. Obviously, some people find it very suspicious, but I don’t know enough about it to comment.

Mr. MCCLINTOCK. Let me go on. According to the Senate Judiciary Committee, Mr. Comey had—quoting from the report—Mr.

Comey had already decided he would issue a statement exonerating Secretary Clinton. That was long before FBI agents finished their work. Mr. Comey even circulated an early draft statement to select members of senior FBI leadership.

The outcome of an investigation should not be prejudged while FBI agents are still hard at work trying to gather facts. Could these actions constitute obstruction of justice?

Mr. PRAKASH. I don't know, Representative. If, in fact, the investigators prejudged the merits of that investigation before it was complete, it would be a grievous error, and it might very well rise to the level of obstruction of justice. But I don't have any knowledge of that.

Mr. MCCLINTOCK. Let me read from Gregg Jarrett's account of this era.

He says, "Another oddity was the five so-called immunity agreements granted to Clinton's State Department aides and IT experts.

"Cheryl Mills, Clinton's former chief of staff, along with two other State Department staffers, John Bentel and Heather Samuelson, were afforded immunity agreements, as was Bryan Pagliano, Clinton's former IT aide, and Paul Combetta, an employee of Platte River Networks, the firm hired to manage her server after she left the State Department.

"As Fox News has reported, Combetta utilized the computer program BleachBit to destroy Clinton's records despite an order from Congress to preserve them, and Samuelson also destroyed Clinton's emails. Pagliano established the system that illegally transferred classified and Top Secret information to Clinton's private server. Mills disclosed classified information to Clinton's family foundation in the process, breaking Federal laws.

Why were these five people given immunity from prosecution? In almost every criminal case, immunity is only granted after a witness delivers a proffer, an offer of proof of evidence, that incriminates someone else and precipitates criminal charges. Yet no one, Clinton included, was ever prosecuted.

The prospect of a Comey coverup was further fueled by the inexplicable actions of the FBI when it reportedly destroyed the laptops of Samuelson and Mills after they received immunity. Why would the FBI erase or demolish computers with classified information contained therein? It appears the Bureau itself committed crimes by destroying evidence relevant to its own criminal investigation.

But there's more. According to a senior FBI source, quote, "Mills was allowed to sit in on the interview of Clinton as her lawyer. That's absurd. Someone who is supposedly cooperating against the target of an investigation being permitted to sit by the target as counsel violates any semblance of ethical responsibility," end quote.

What are your thoughts, hearing those observations?

Mr. PRAKASH. Representative, I'm just not prepared to discuss that investigation. I will say that under the——

Mr. MCCLINTOCK. Does it trouble you as an attorney?

Mr. PRAKASH. Well, I——

Mr. MCCLINTOCK. As someone who believes in the rule of law, does it trouble you?

Mr. PRAKASH. I find many aspects of that investigation troubling. I'll leave it at that.

I will add that the special counsel's definition of "obstruction" makes it possible that cooperating with the prosecutor for the wrong reasons is itself obstruction, because it's influencing an investigation and doing so for a corrupt purpose.

So, for instance, if you decide to cooperate with the prosecutor solely to save your own skin, that is a corrupt purpose because it's personal——

Mr. MCCLINTOCK. You know, let me go under——

Mr. PRAKASH [continuing]. And you've committed a crime, which I think suggests that the special counsel's definition is too broad.

Mr. MCCLINTOCK. Let me just touch also on the Executive's use of his constitutional authority.

In the early 1960s, the FBI, under J. Edgar Hoover, conducted extensive wiretaps and surveillance of Dr. Martin Luther King. Now, if President Kennedy had called Hoover and said, "This is nonsense, knock it off," would that have constituted an obstruction of justice?

Mr. PRAKASH. No, sir. I wrote before the election that the next President could fire Mr. Comey, and I wrote that with Senator Clinton in mind.

Mr. MCCLINTOCK. Well, when John Deutch served as CIA Director under Bill Clinton, he was prosecuted for putting classified materials on his home computer. While he was negotiating a plea deal with the prosecutors, President Clinton pardoned him, a clear constitutional prerogative of the office. Was that an obstruction of justice?

Mr. PRAKASH. I don't believe so, sir.

Mr. MCCLINTOCK. All right. Thank you very much.

Chairman NADLER. The gentleman's time has expired.

The gentlelady from California, Ms. Bass.

Ms. BASS. Thank you. Thank you very much, Mr. Chair.

As my colleagues have noted before, the Mueller report documents more than 170 contacts between individuals associated with the Trump campaign and Russian nationals or people acting on their behalf.

You can see from this slide, in the word cloud, those are many of the—describe the Russian nationals who had been in contact with the campaign.

One of the most direct interactions between Russian officials and the campaign occurred at a meeting on June 9th in Trump Tower.

On June 3rd, publicist Robert Goldstone emailed Donald Trump, Jr., telling him that a high-ranking Russian prosecutor, quote, "offered to provide the Trump campaign with some official documents and information that would incriminate Hillary and her dealings with Russia and would be very useful to your father."

Goldstone added, "This is obviously very high level and sensitive information, but it's part of Russia and its government's support for Mr. Trump," close quote.

Within minutes, Donald Trump, Jr., responded, quote, "If it's what you say it is, I love it, especially later in the summer."

Trump, Jr., proceeded to set up a meeting between the Russian prosecutor, himself, campaign manager Paul Manafort, campaign senior advisor Jared Kushner, and several of the prosecutor's associates.

This is a question for Ms. Cordero.

From a counterintelligence perspective, how significant is it for a foreign government to reach out to an American Presidential campaign and offer to help work against that candidate's opponent? Do you think this happens often with Presidential campaigns?

And from a counterintelligence perspective, are political candidates or current elected officials the usual targets of such intelligence activities by foreign powers?

Ms. CORDERO. No, I don't have any reason to think that this is a normal occurrence with respect to a campaign.

What the Mueller report shows is that the Russians were crawling all over this campaign. They were everywhere.

And what the information that you just quoted demonstrates is that the members affiliated with the Trump campaign were knowledgeable and willing—and there's lots of other documentation in the report—knowledgeable and willing about Russian efforts to support their campaign. That email is but one example.

Ms. BASS. So is this a typical tactic, do you know, of the Russian Government in its efforts to acquire human intelligence or compromising information? Do you know of other examples around the world where they might have used the same tactics?

Ms. CORDERO. Well, we certainly know and it's been well-documented—and I'm sure Dr. Polyakova has thoughts on this as well—that the Russian influence efforts to effect democratic processes are in Europe, in Eastern Europe, throughout Western Europe. Their goal is to try to influence these democracies in a way that suits their interests.

And that's what I tried to get at in my written statement as well, is that when a foreign entity, in this case the Russian intelligence efforts, are trying to influence other countries, what they're trying to do is influence them in a way that is in their interests, not ours.

Ms. BASS. So how is it in their interests that Trump be elected as President? And what has happened since he's been in office that would've been in their interests?

Ms. CORDERO. Well, there's one piece of the report that describes that an individual who was affiliated with a nongovernmental organization actually was working on a sort of new plan for how U.S.-Russia relations would take place. So there is information in the report that indicates that there were various ways that the Russian Government was going at this.

In addition, the report also says that the Russian influence efforts started before candidate Trump entered the race——

Ms. BASS. Let me be——

Ms. CORDERO [continuing]. But that the effort then changed over time to actively support the Trump campaign.

Ms. BASS. So, before I run out of time, would you like to continue to respond?

Dr. POLYAKOVA. A few comments.

One, it is, I would say, part of normal Russian intelligence operations to try to infiltrate and penetrate political parties and campaigns. We have seen this happen for decades now across Eastern Europe and Western Europe. So, in many ways, the efforts in the United States are part of a much broader pattern that has continued to this day and continues today.

Regarding the Russian intent, the Russian intent is never benign. It is not a benign offer of help when an adversarial regime approaches a political campaign with potential information related to anything. That should be very clear in everyone's minds.

And one thing I will note regarding why it would be in the Russian interests, there's one specific incident also noted in the report and elsewhere during the RNC Convention in which we know there was a line changed regarding U.S. support for Ukraine. Of course, it is in the Russian interest to see less support for Ukraine, and as one specific example of how it would've been in the Russian interest to support the Republican candidate, Donald Trump.

Ms. BASS. I yield back my time.

Chairman NADLER. I thank the gentlelady.

The gentleman from Pennsylvania, Mr. Reschenthaler.

He's not here.

The gentleman from Virginia, Mr. Cline, then.

Mr. CLINE. Thank you, Mr. Chairman.

I want to thank the witnesses for being here today.

And I would note, although my colleague Mr. Jordan has left, that, you know, the University of Virginia does currently hold a national basketball championship. So that's something to be said for the ACC right there.

But, you know, this hearing today is about—supposedly about bipartisan perspectives. And I want to appreciate—I want to thank the witnesses for many of their perspectives on Russian interference.

Reading from the Mueller report, “Although the investigation established that the Russian Government perceived it would benefit from a Trump Presidency and worked to secure that outcome and that the campaign expected it would benefit electorally from information stolen or released through Russian efforts, the investigation did not establish that members of the Trump campaign conspired or coordinated with the Russian Government in its election interference activities.”

What I'm hearing from my colleagues is a desperate effort to dig through the couch cushions, essentially, trying to find anything they might be able to use to prolong this narrative and establish that these are—they can't help but push hearings on impeachment under the guise of oversight.

So I am disappointed, Mr. Chairman, in the way that the witnesses and the minority have essentially been whipsawed as to whether this hearing is on Volume I or Volume II. I would've liked to have heard some more about Russian interference and what can be done to prevent it, because I think that's a real issue.

Mr. CLINE. Ms. Cordero, you spoke of foreign interference undermining our system. Is Russia still engaged in election interference?

Ms. CORDERO. According to the most recent information that I've seen from the U.S. intelligence community, which is in the best position to assess it, their activities to interfere in our elections going forward—there was evidence in the 2018 election, and I haven't seen anything from U.S. intelligence community leaders or the FBI Director that says that it's stopped.

Mr. CLINE. In fact, articles I've seen indicate that the EU elections 2 weeks ago showed evidence of Russian interference.

And any of the witnesses can respond to that, if they're aware of it.

Dr. POLYAKOVA. I would be happy to respond to that, Congressman.

As I say in my written testimony, the interference in the United States was not the last instance. We have seen significant interference in the Presidential campaign of Emmanuel Macron in 2017. We've seen a Russian hack of the German parliament, the Bundestag, also in that year and later.

So these efforts continue. And just in the recent European Parliamentary election, which you referred to, that happened this past May, the European institutions issued a statement saying that there was significant Russian disinformation that targeted those European elections.

And I would just highlight the fact that our European allies are far ahead because of political leadership within the European Commission in getting ahead of this threat.

Mr. CLINE. And I would ask either Ms. Cordero or Dr. Polyakova: One of the great attributes, benefits of our system and that enables us to be more resistant to foreign interference is the fact that we are a decentralized system, that those decisions are made at the State, at the local, at the county level, when it comes to machinery and the lack of standardization. The inability of a foreign entity to hack into, on a broad, broad scale, U.S. systems, is an attribute, correct?

Ms. CORDERO. I would say—certainly our system is decentralized, and so perhaps there is an argument that that decentralization has a benefit.

I am concerned, though—there is a Federal responsibility, particularly out of the Department of Homeland Security, to help State and local agencies make sure that they have the best information, the best techniques, the best advice to be able to secure our elections. And I am concerned that the administration, particularly with its attention to DHS, is not prioritizing that assistance that they can provide to State and locals.

Mr. CLINE. And I would agree that some help is appropriate. Removal of that State and local authority to a Federal level is probably endangering that system or making it more susceptible to foreign interference, would you not agree? If we were to remove that State and local responsibility.

Ms. CORDERO. Congressman, I'll have to think about that. I'm not aware of proposals that actually would change that elections be administered not at the State and local level anymore. But if there is such a proposal, I'd be happy to look at—

Mr. CLINE. Well, I would argue that many of the provisions in H.R. 1 actually did go in the way of federalizing and removing authority from State and local elections. And so this Congress, actually this majority Democrat leadership, is in the process of trying to remove much of that authority.

And I see I've run out of time. I yield back.

Chairman NADLER. The gentleman yields back.

The gentleman from New York, Mr. Jeffries.

Mr. JEFFRIES. Thank you, Mr. Chairman.

I thank the witnesses.

Ms. Cordero, it is never acceptable for a U.S. Presidential campaign to welcome assistance from a hostile foreign power. Is that correct?

Ms. CORDERO. In my judgment, yes.

Mr. JEFFRIES. But that is exactly what the Trump campaign did in 2016, true?

Ms. CORDERO. Yes.

Mr. JEFFRIES. And you believe that accepting and welcoming that assistance from Russia, a hostile foreign power, is disqualifying. Is that right?

Ms. CORDERO. Yes.

Mr. JEFFRIES. And what exactly did you mean by “disqualifying”?

Ms. CORDERO. What I mean is that I don’t think that it should be—and this isn’t a judgment of the American public—but that there should be a legitimate candidacy of a candidate that is willingly willing to receive—openly willing to receive information from a hostile intelligence service. So I do believe that that is a fundamental violation of the oath, and I don’t think—and this is a political judgment—that that should be a viable candidacy.

Mr. JEFFRIES. And you make that political judgment as a conservative libertarian. Is that right?

Ms. CORDERO. As a conservative lawyer, as a national security lawyer.

Mr. JEFFRIES. Thank you.

Dr. Polyakova, you’re an expert in Russian foreign policy. Is that right?

Dr. POLYAKOVA. Yes.

Mr. JEFFRIES. And, in your testimony, I think you detailed that Russia is a hostile foreign power continuing to engage in political warfare against the West. Is that right?

Dr. POLYAKOVA. Yes.

Mr. JEFFRIES. And that included the Russian operation that targeted the U.S. Presidential election in 2016?

Dr. POLYAKOVA. That’s correct.

Mr. JEFFRIES. And it’s your opinion, I believe, that Manafort’s past work in the Ukraine, quote, “absolutely should cast a shadow on Trump’s 2016 campaign.” Is that right?

Dr. POLYAKOVA. I’m sorry. Can you repeat the question?

Mr. JEFFRIES. That Manafort’s past work in the Ukraine casts a shadow on his work in the 2016 campaign. Is that right?

Dr. POLYAKOVA. I believe so, yes.

Mr. JEFFRIES. And that’s in part because of his association with Russian oligarchs. Is that correct?

Dr. POLYAKOVA. And his previous undeclared work as an agent of a foreign government, yes.

Mr. JEFFRIES. Okay.

And Manafort’s Russian and Ukrainian contacts all had ties to Putin. Is that right?

Dr. POLYAKOVA. I wouldn’t go as far as to say all of them. Certainly some are suspected to have ties to the Kremlin, although we don’t know specifically if those ties were directly to the Russian President.

Mr. JEFFRIES. Okay.

And throughout Manafort's time leading the Trump campaign, he stayed in touch with some of these contacts through an individual named Konstantin Kilimnik. Is that right?

Dr. POLYAKOVA. That is my understanding of the report, yes.

Mr. JEFFRIES. And Kilimnik is a longtime associate of Manafort. Is that right?

Dr. POLYAKOVA. That is what is stated in the report, yes.

Mr. JEFFRIES. Right. And I think the Mueller report concluded that Kilimnik had ties to Russian intelligence. Is that correct?

Dr. POLYAKOVA. According to the report, yes.

Mr. JEFFRIES. Now, I believe on two occasions Manafort met with Kilimnik during the campaign. Is that right?

Dr. POLYAKOVA. Off the top of my head, I can't recall if it was just two or more, but certainly there were several meetings, yes.

Mr. JEFFRIES. One of those meetings took place in New York City in August of 2016 while Manafort was serving as the campaign manager. Is that right?

Dr. POLYAKOVA. I believe you are correct, yes.

Mr. JEFFRIES. And I believe, according to the report, Volume I, page 140: At the August 2016, meeting, Manafort briefed Kilimnik on campaign messaging and shared internal polling data related to the battleground States of Michigan, Wisconsin, and Pennsylvania. Is that right?

Dr. POLYAKOVA. Yes.

Mr. JEFFRIES. And is it fair to say that campaign polling data is a thing of value?

Dr. POLYAKOVA. I will say that I am not an expert on that particular issue. It's my opinion that it seems to be of value, yes.

Mr. JEFFRIES. Is it your understanding that during the fall of 2016, after that meeting, Russian operatives then engaged in malignant social media activity and influence-peddling in Michigan, Wisconsin, and Pennsylvania?

Dr. POLYAKOVA. They did.

Mr. JEFFRIES. The Mueller report concludes, I believe, that the Trump campaign welcomed Russia's interference and attack on our democracy, right?

Dr. POLYAKOVA. Correct.

Mr. JEFFRIES. And Donald Trump won Michigan, Wisconsin, and Pennsylvania on his way to the Presidency. Is that correct?

Dr. POLYAKOVA. Yes.

Mr. JEFFRIES. It's my understanding that the last Republican to win all three States was Ronald Reagan in 1984. Is that true?

Dr. POLYAKOVA. I will take your word for it.

Mr. JEFFRIES. It seems to me that there's a cloud of illegitimacy that continues to hang over 1600 Pennsylvania Avenue and that patriotic Americans have a responsibility to try to figure out what the heck happened in terms of the malignant tumor that seemed to have been embedded in that 2016 campaign, what did the President know—

Mr. COLLINS. Regular order.

Mr. JEFFRIES [continuing]. When did he know it—

Mr. COLLINS. Regular order.

Mr. JEFFRIES [continuing]. And how do we prevent—

Mr. COLLINS. Regular order.

Mr. JEFFRIES [continuing]. This type of malignant activity from happening again.

Mr. COLLINS. The time has expired. Regular order.

Mr. JEFFRIES. I yield back.

Dr. POLYAKOVA. Should I respond?

Chairman NADLER. The witness may respond.

Dr. POLYAKOVA. Thank you.

I will only say that the greatest contribution of the Mueller report and the indictments from the previous year has been to expose the full, broad-spectrum nature of Russian intelligence operations and information operations, their broader toolkit of political warfare against the United States and other allied democracies.

And I do believe that it should be up to this legislative body to continue to seek more information related to that kind of interference in our democracy, which is absolutely corroding to the future stability of our democratic institutions.

Mr. JEFFRIES. Thank you.

Chairman NADLER. The gentleman's time has expired.

The gentleman from North Dakota, Mr. Armstrong.

Mr. ARMSTRONG. Thank you, Chairman.

Professor Prakash, just when we're discussing—and I appreciate you coming. And we've asked you to be here, so I'm going to ask questions of you of what you are here to testify for, regardless of what was going on.

But I think I really would like to get into the premise of exoneration in Volume II in the Mueller report and why that's problematic for, not just obstruction, any kind of criminal crime, particularly with a prosecutor. I mean, can you illuminate a little bit on that?

Mr. PRAKASH. Representative, are you talking about Volume I or Volume II?

Mr. ARMSTRONG. Volume II, where they basically say—a prosecutor saying, we cannot exonerate somebody.

Mr. PRAKASH. Well, I think it's unusual for prosecutors to say anything. They either indict or they don't.

And I think the Mueller report, I think, assumes or reads OLC opinions as if they say that not only can you not indict or prosecute a President, you can't conclude that the President committed a crime. And, of course, no OLC opinion says that. And so there was really no bar on Mr. Mueller coming to a legal conclusion. And I believe he was told this by the Attorney General.

Nonetheless, Mr. Mueller decided not to reach a legal conclusion about whether or not the President committed obstruction of justice. And that can, you know, either reflect two things. One, it perhaps reflects his unwillingness to say that, to cast a cloud over the President. It could also reflect his uncertainty about whether the President actually obstructed justice.

Mr. ARMSTRONG. And so, when we go into—and when we continue—and are you familiar with the clear statement rule?

Mr. PRAKASH. Yes, I am.

Mr. ARMSTRONG. And can you, I mean, kind of give us some background on how that analysis applies to the report?

Mr. PRAKASH. Well, the clear statement rule—there's many clear statement rules that the courts apply, but one of them is that statutes that are written in broad terms, sometimes the courts conclude

that we're not going to read them to apply to the President because doing so raises separation-of-powers concerns.

And so the court in a case called *Public Citizen v. Department of Justice* decided not to read FACA to apply to the ABA out of the concerns of the imposition it might cause to the Presidential power to appoint nominees.

And then in another case involving not FACA but the APA, *Franklin v. Massachusetts*, the court also said we're not going to read the APA to apply to the President, even though, by its terms, it could be so read. And, again, the concern was separation of powers.

I think the interest is more palpable here, the concern is more palpable here, because if you read the obstruction statute as applying to the supervisory authority of the President, you're basically making every Presidential intervention into a potential obstruction of justice, because one can always say that the President's intervention was corrupt, because you don't really know why the President's intervening.

Mr. ARMSTRONG. And separation of powers bring up—interesting, something you said earlier when talking about executive privilege and immunity. And I think you and I could have a long—in a different scenario, have an interesting conversation about that and where it applies and why it doesn't apply.

But it brings up a better point. And we've done this several times today, whether it's Volume I, Volume II, as we're speaking up here. I mean, Volume II, we found that there was no—or Volume I found there was no conspiracy, no coordination. The reason collusion is different is “collusion” is not a legal term. I mean, “collusion” is a layperson's term. But I think it need to be abundantly clear, there was no coordination, no conspiracy. And we talk about privilege and immunity, which are two different things, when the President is exercising his authority versus—regarding separation of powers.

And last but not least—and I think it's important—when we talk about willfulness, I mean, ignorance of the law is not a defense. It's not a defense to the President, it's not a defense to the President's advisor, it's not a defense to anybody. Willfulness to engage in criminal conduct is all that is needed to have a willfulness conviction. I mean, if not, I have about 300 past criminal clients that should probably sue me for malpractice. So when we're doing those things and working through that, I think it's important.

And, with that, I'd yield to my friend from Florida.

Mr. GAETZ. I thank the gentleman for yielding.

Ms. Cordero, you've been critical of James Clapper in the past, haven't you?

Ms. CORDERO. I don't think so. Is there something specific you're referring to?

Mr. GAETZ. Yeah. I'm looking at the essay I referenced earlier, where you wrote: In January 2012, the Director of National Intelligence, James Clapper, devoted only three short paragraphs to Mexico in his annual unclassified Worldwide Threat Assessment. His understated assessment, however, appears to be at odds with other high-ranking U.S. Government statements and actions, which indicate far more grave circumstances.

So it seems as though there's at least one case where you are critical of Mr. Clapper's assessment of intelligence. Is that accurate?

Ms. CORDERO. In that 2013, I think it was, Law Review article, yes, I pointed out that——

Mr. GAETZ. Thank you so much.

I yield back.

Ms. CORDERO [continuing]. They had only used a short amount of the worldwide threat statement to address to border issues.

Mr. GAETZ. It doesn't appear he's gotten over some of his misassessments.

Chairman NADLER. The gentleman yields back.

The gentleman from Rhode Island, Mr. Cicilline.

Mr. CICILLINE. Thank you, Mr. Chairman.

And thank you for holding this hearing. I was saddened to hear my Republican colleagues try to suggest what we're doing today isn't important. I consider no more a sacred responsibility that we have as Members of Congress than to preserve our democracy and ensure that no foreign adversary of the United States interferes with American elections.

When I think of the brave men and women who have served our country and given their lives in defense of our democracy, it seems to me that we owe it to them to do our part by conducting serious oversight and holding those accountable who engaged in this behavior and quickly pass strong legislation to prevent this from ever happening again. Nothing could be more urgent and more important.

Now, members of the President's own administration have been very clear in stating that Russia attacked our elections in 2016 and will likely try to do it again. And, in fact, the conclusion of the Mueller report, after a very detailed investigation, is that the Russian Government interfered in the 2016 Presidential election in sweeping and systematic fashion. And that's a quote.

But President Trump has not only said he would be open to receiving foreign help in the next election, but he's also repeatedly disparaged the men and women in the intelligence community and the law enforcement community who investigated Russia's actions and who are trying to help prevent from this happening again. And the examples of that are—there are so many.

Dr. Polyakova—I hope I am pronouncing that—you have explained that one of the main purposes behind Russia's influence operations is to sow distrust in institutions and try to blur the lines between fact and fiction.

When the President accuses American law enforcement and intelligence officials of spying and even treason without any basis to suggest they've done anything wrong, does that help advance Russia's aim? And if so, how?

Dr. POLYAKOVA. It absolutely helps Russian interests to hear a U.S. President seemingly not take seriously or not believe the findings of his own administration's intelligence agencies, yes. That suits Russia's aims because it suggests that the U.S. President does not believe or take seriously the findings of the intelligence community which clearly implicate the Russian Government and Mr. Putin himself in an attack on the United States.

Mr. CICILLINE. Thank you.

And, Professor Cordero, you wrote recently that Attorney General Barr's allegations about spying on the Trump campaign and his announcement of an investigation into how the FBI's investigation got started has put agents who were following existing rules in an untenable position if the need arises to conduct similar investigations in the next election.

You wrote that the current environment may create—and I quote you—a chilling effect on agents, who may be reluctant to open investigations on certain individuals based on the rhetoric coming from the President and the Attorney General or otherwise to aggressively investigate foreign influence on political campaigns or electoral processes.

Can you explain why there's a chilling effect and what the danger of that is?

Ms. CORDERO. Sure. So, as a former Justice Department national security lawyer, that's the perspective that I bring to this issue. And so what I'm concerned about is, because the Attorney General has now publicly and openly and repeatedly said that he questions the origin of the investigation, that he is then calling into question how agents are authorized and feel empowered to conduct their counterintelligence responsibilities.

So what I hope his review does, U.S. Attorney Durham's review does, is—I actually think it would be beneficial for them to look at the policies and procedures. And if the Attorney General doesn't agree with the approval levels to open these types of investigations or the different processes that are in place, then it is within his prerogative to change them. What's unfair to the investigators and the intelligence analysts doing this work is to have rules that exist and then disparage them from following them.

Mr. CICILLINE. Thank you.

And since the origins of the Trump/Russia investigation have been discussed by some of my colleagues, I just want to point people to Volume I, page 89. This will answer their question.

On May 6, 2016, campaign advisor George Papadopoulos told a foreign diplomat that the Trump campaign had received indications from the Russian Government that it could assist the campaign through anonymous release of information that would be damaging to Hillary Clinton.

Footnote 465 at the bottom of the page continues: The foreign government—that is, government for whom that diplomat worked—conveyed this information to the U.S. Government on July 26, 2016, a few days after WikiLeaks' release of Clinton-related emails. The FBI opened its investigation of potential coordination between Russia and the Trump campaign a few days later based on this information.

No mystery about how it started. You can wish it was a different thing. It's right in the Mueller report. Read it.

My final question, Ms. Cordero, is, you know, there's a lot of evidence about 170 contacts between the Trump campaign and the Russians, the sharing of polling data, the meeting at the Trump Tower where dirt was to be conveyed, releases of WikiLeaks, the President welcoming it and inviting a hack into Hillary Clinton's personal email account.

And while you mentioned that there was not enough evidence, according to the special counsel, for a criminal conspiracy, was there evidence of, in fact, coordination or conspiracy in some other way? What did you mean by the word “criminal conspiracy”?

Ms. CORDERO. Well, I think that the finding of Volume I of the special counsel’s report that there was not evidence of a criminal conspiracy, it really shows the limits of applying criminal law to what is a national security or a counterintelligence investigation and problem.

And so they needed to—they were tasked with conducting a criminal investigation, so they applied criminal law. But that is different and should not be mutually exclusive from conducting what is a valid counterintelligence investigation, the goal of which might be to eventually have a prosecution or maybe not, but the goal of which is to uncover the underlying national security threat.

Mr. CICILLINE. Thank you.

Thank you, Mr. Chairman. I yield back.

Chairman NADLER. The gentleman has yielded back.

The gentleman from Arizona, Mr. Biggs.

Mr. BIGGS. Thank you, Mr. Chairman. I yield some time to the gentleman from Florida, Mr. Gaetz.

Mr. GAETZ. I thank the gentleman for yielding.

Mr. Chairman, can we get the word cloud with Mr. Kilimnik’s name prominently displayed back up?

Chairman NADLER. I don’t know. Can we?

Mr. CICILLINE. While we’re doing that, will the gentleman yield?

Mr. BIGGS. Excuse me. Reclaiming my time. Point of order. I’m looking at the clock. The clock is not—thank you.

And now I’ll yield back to Mr. Gaetz.

Chairman NADLER. Mr. Gaetz, will you yield while they’re looking for the cloud?

Mr. GAETZ. I’m sorry, Mr. Cicilline. You just controlled the time and could—

Mr. CICILLINE. I know, but you just got—I didn’t realize you were here.

Mr. GAETZ. Sorry. I’ve got work to do here on Mr. Biggs’ time.

So this is this word cloud that the majority has cited, with the name prominently in the middle, Konstantin Kilimnik.


And I seek unanimous consent, Mr. Chairman, to enter into the record a piece in The Hill by John Solomon entitled “Key Figure That the Mueller Report Identifies Was a State Department Intel Source.”

Chairman NADLER. Without objection.

[The information follows:]

MR. GAETZ FOR THE OFFICIAL RECORD

Key figure that Mueller report linked to Russia was a State Department intel source

 thehill.com/opinion/white-house/447394-key-figure-that-mueller-report-linked-to-russia-was-a-state-department
John Solomon, opinion contributor

June 6,
2019

In a key finding of the [Mueller report](#), [Ukrainian businessman](#), who worked for Trump campaign chairman [Paul Manafort](#) [Paul John Manafort](#) [FBI](#), [warned early and often that Manafort file might be fake, used it anyway](#) [Justice Department intervenes, keeps Manafort from being sent to Rikers Island: report](#) [The Hill's 12:30 Report — Presented by MAPRx — Supreme Court double jeopardy ruling could impact Manafort](#) [MORE](#), is tied to Russian intelligence.



But hundreds of pages of government documents — which special counsel [Robert Mueller](#) [Robert \(Bob\) Swan Mueller](#) [Kamala Harris says her Justice Dept would have 'no choice' but to prosecute Trump for obstruction](#) [Dem committees win new powers to investigate Trump](#) [Schiff says Intel panel will hold 'series' of hearings on Mueller report](#) [MORE](#) possessed since 2018 — describe Kilimnik as a “sensitive” intelligence source for the U.S. State Department who informed on Ukrainian and Russian matters.



Why Mueller's team omitted that part of the Kilimnik narrative from its report and related court filings is not known. But the revelation of it comes as the accuracy of Mueller's Russia conclusions face increased scrutiny.

ADVERTISEMENT

The incomplete portrayal of Kilimnik is so important to Mueller's overall narrative that it is raised in the opening of his report. “The FBI assesses” Kilimnik “to have ties to Russian intelligence,” Mueller's team wrote on Page 6, putting a sinister light on every contact Kilimnik had with Manafort, the former Trump campaign chairman.

What it doesn't state is that Kilimnik was a “sensitive” intelligence source for State going back to at least 2013 while he was still working for Manafort, according to FBI and State Department memos I reviewed.

Kilimnik was not just any run-of-the-mill source, either.

He interacted with the chief political officer at the U.S. Embassy in Kiev, sometimes meeting several times a week to provide information on the Ukraine government. He relayed messages back to Ukraine's leaders and delivered written reports to U.S. officials via emails

that stretched on for thousands of words, the memos show.

The FBI knew all of this, well before the Mueller investigation concluded.

Alan Purcell, the chief political officer at the Kiev embassy from 2014 to 2017, told FBI agents that State officials, including senior embassy officials Alexander Kasanof and Eric Schultz, deemed Kilimnik to be such a valuable asset that they kept his name out of cables for fear he would be compromised by leaks to WikiLeaks.

“Purcell described what he considered an unusual level of discretion that was taken with handling Kilimnik,” states one FBI interview report that I reviewed. “Normally the head of the political section would not handle sources, but Kasanof informed Purcell that KILIMNIK was a sensitive source.”

Purcell told the FBI that Kilimnik provided “detailed information about OB (Ukraine’s opposition bloc) inner workings” that sometimes was so valuable it was forwarded immediately to the ambassador. Purcell learned that other Western governments relied on Kilimnik as a source, too.

“One time, in a meeting with the Italian embassy, Purcell heard the Italian ambassador echo a talking point that was strikingly familiar to the point Kilimnik had shared with Purcell,” the FBI report states.

Kasanof, who preceded Purcell as the U.S. Embassy political officer, told the FBI he knew Kilimnik worked for Manafort’s lobbying firm and the administration of former Ukrainian President Viktor Yanukovich, whose Party of Regions hired Manafort’s firm.

Kasanof described Kilimnik as one of the few reliable insiders the U.S. Embassy had informing on Yanukovich. Kilimnik began his relationship as an informant with the U.S. deputy chief of mission in 2012–13, before being handed off to the embassy’s political office, the records suggest.

“Kilimnik was one of the only people within the administration who was willing to talk to USEMB,” referring to the U.S. Embassy, and he “provided information about the inner workings of Yanukovich’s administration,” Kasanof told the FBI agents.

“Kasanof met with Kilimnik at least bi-weekly and occasionally multiple times in the same week,” always outside the embassy to avoid detection, the FBI wrote. “Kasanof allowed Kilimnik to take the lead on operational security” for their meetings.

State officials told the FBI that although Kilimnik had Ukrainian and Russian residences, he did not appear to hold any allegiance to Moscow and was critical of Russia’s invasion of the Crimean territory of Ukraine.

"Most sources of information in Ukraine were slanted in one direction or another," Kasanof told agents. "Kilimnik came across as less slanted than others."

"Kilimnik was flabbergasted at the Russian invasion of Crimea," the FBI added, summarizing Kasanof's interview with agents.

Three sources with direct knowledge of the inner workings of Mueller's office confirmed to me that the special prosecutor's team had all of the FBI interviews with State officials, as well as Kilimnik's intelligence reports to the U.S. Embassy, well before they portrayed him as a Russian sympathizer tied to Moscow intelligence or charged Kilimnik with participating with Manafort in a scheme to obstruct the Russia investigation.

Kasanof's and Purcell's interviews are corroborated by scores of State Department emails I reviewed that contain regular intelligence from Kilimnik on happenings inside the Yanukovich administration, the Crimea conflict and Ukrainian and Russian politics. For example, the memos show Kilimnik provided real-time intelligence on everything from whose star in the administration was rising or falling to efforts at stuffing ballot boxes in Ukrainian elections.

Those emails raise further doubt about the Mueller report's portrayal of Kilimnik as a Russian agent. They show Kilimnik was allowed to visit the United States twice in 2016 to meet with State officials, a clear sign he wasn't flagged in visa databases as a foreign intelligence threat.

The emails also show how misleading, by omission, the Mueller report's public portrayal of Kilimnik turns out to be.

For instance, the report makes a big deal about Kilimnik's meeting with Manafort in August 2016 at the Trump Tower in New York.

By that time, Manafort had served as Trump's campaign chairman for several months but was about to resign because of a growing controversy about the millions of dollars Manafort accepted as a foreign lobbyist for Yanukovich's party.

Specifically, the Mueller report flagged Kilimnik's delivery of a peace plan to the Trump campaign for settling the two-year-old Crimea conflict between Russia and Ukraine.

"Kilimnik requested the meeting to deliver in person a peace plan for Ukraine that Manafort acknowledged to the Special Counsel's Office was a 'backdoor' way for Russia to control part of eastern Ukraine," the Mueller report stated.

But State emails showed Kilimnik first delivered a version of his peace plan in May 2016 to the Obama administration during a visit to Washington. Kasanof, his former handler at the U.S. Embassy in Ukraine, had been promoted to a top policy position at State, and the two

met for dinner on May 5, 2016.

The day after the dinner, Kilimnik sent an email to Kasanof's official State email address recounting the peace plan they had discussed the night before.

Russia wanted "a quick settlement" to get "Ukraine out of the way and get rid of sanctions and move to economic stuff they are interested in," Kilimnik wrote Kasanof. The email offered eight bullet points for the peace plan — starting with a ceasefire, a law creating economic recovery zones to rebuild war-torn Ukrainian regions, and a "presidential decree on amnesty" for anyone involved in the conflict on both sides.

Kilimnik also provided a valuable piece of intelligence, stating that the old Yanukovych political party aligned with Russia was dead. "Party of Regions cannot be reincarnated. It is over," he wrote, deriding as "stupid" a Russian-backed politician who wanted to restart the party.

Kasanof replied the next day that, although he was skeptical of some of the intelligence on Russian intentions, it was "very important for us to know."

He thanked Kilimnik for the detailed plan and added, "I passed the info to my bosses, who are chewing it over." Kasanof told the FBI that he believed he sent Kilimnik's peace plan to two senior State officials, including Victoria Nuland, President Obama's assistant secretary of State for European and Eurasian affairs.

So Kilimnik's delivery of the peace plan to the Trump campaign in August 2016 was flagged by Mueller as potentially nefarious, but its earlier delivery to the Obama administration wasn't mentioned. That's what many in the intelligence world might call "deception by omission."

Lest you wonder, the documents I reviewed included evidence that Kasanof's interview with the FBI and Kilimnik's emails to State about the peace plan were in Mueller's possession by early 2018, more than a year before the final report.

Officials for the State Department, the FBI, the Justice Department and Mueller's office did not respond to requests for comment. Kilimnik did not respond to an email seeking comment but, in an email [last month to The Washington Post](#), he slammed the Mueller report's "made-up narrative" about him. "I have no ties to Russian or, for that matter, any intelligence operation," he wrote.

Kilimnik holds Ukrainian and Russian citizenship, served in the Soviet military, attended a prestigious Russian language academy and had contacts with Russian oligarch Oleg Deripaska. So it is likely he had contacts over the years with Russian intelligence figures.

There also is evidence Kilimnik left the U.S.-funded International Republican Institute (IRI) in 2005 because of concerns about his past connections to Russia, though at least one IRI witness disputed that evidence to the FBI, the memos show.

Yet, omitting his extensive, trusted assistance to the State Department seems inexplicable.

If Mueller's team can cast such a misleading portrayal of Kilimnik, however, it begs the question of what else might be incorrect or omitted in the report.

Attorney General [William Barr](#)[William Pelham Barr](#)[Darrell Issa](#) [eyes return to Congress](#) [Martin Sheen, Robert De Niro join star-studded video breaking down Mueller report findings](#) [The Hill's Morning Report - Democrats frustrated by Hope Hicks's silence](#) MORE has said some of the Mueller report's legal reasoning conflicts with Justice Department policies. And former Trump attorney John Dowd made a compelling case that Mueller's report wrongly portrayed a phone message he left for a witness.



A few more such errors and omissions, and Americans may begin to wonder if the Mueller report is worth the paper on which it was printed.

[John Solomon](#) is an award-winning investigative journalist whose work over the years has exposed U.S. and FBI intelligence failures before the Sept. 11 attacks, federal scientists' misuse of foster children and veterans in drug experiments, and numerous cases of political corruption. He serves as an investigative columnist and executive vice president for video at The Hill. Follow him on Twitter [@jsolomonReports](#).

Mr. GAETZ. And in this reporting by John Solomon, there is demonstrable evidence that Kilimnik was actually meeting with U.S. State Department officials in Kiev to give us intel on the Russians.

This is the first major factual error of the Mueller report. Because if you can't delineate correctly between the people collecting intelligence for Russia and people collecting intelligence for the United States, it would seem to be a departure from the necessary factual basis to proceed.

So I'm hoping we can figure out who Mr. Kilimnik was really working for. But if he was working for us, it would seem to be that Mr. Mueller was severely wrong about this.

And I yield back to the gentleman from Arizona.

Mr. BIGGS. Thank you.

And, Mr. Chairman, I ask for unanimous consent that an article by David Webb, published June 18th, 2019, be admitted to the record.

Chairman NADLER. Without objection.

[The information follows:]

MR. BIGGS FOR THE OFFICIAL RECORD



Webb: President Trump is right

BY DAVID WEBB, OPINION CONTRIBUTOR — 06/18/19 06:59 PM EDT
THE VIEWS EXPRESSED BY CONTRIBUTORS ARE THEIR OWN AND NOT THE VIEW OF THE HILL

452 SHARES

SHARE

TWE

Just In...

Trump goes after 2020 Democrats in first Spanish-language TV news interview
ADMINISTRATION — 55 AGO

Poll: Biden leads Democratic field by 12-points, Warren narrowly tops Sanders
CAMPAIGN — 235 AGO

Multiple people injured in shooting outside Pennsylvania nightclub: authorities
STATE WATCH — 345 AGO

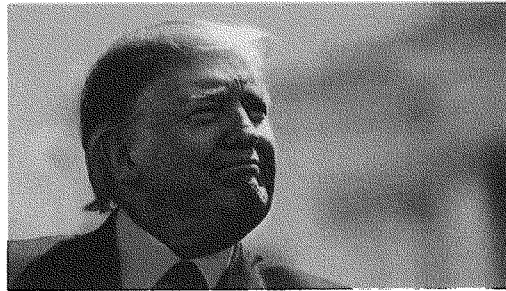
Supreme Court rules in favor of sex offender registration law
COURT BATTLES — 3M 45S AGO

Clyburn walks back criticism of 'tokenism' by top Democratic leaders
HOUSE — 10M 34S AGO

Himalayan glacier melting has doubled in the last two decades
BLOG BRIEFING ROOM — 14M 49S AGO

President Trump was right on Iran
OPINION — 17M 28S AGO

London to hold its largest-ever car-free day to tackle air pollution



© UPI Photo

There is nothing illegal about talking to a foreigner.

Apparently, many don't take the time to read Federal Election Commission regulations or at least do a little research. Journalists are not usually lawyers, but there is some overlap in the skill sets.

Many who jumped into the commentary fervor are often looking for a linear path to their preferred outcome. Some are just lazy and repeat what they've heard.

President Trump was correct, but to be fair, his wording could have been better. ABC News's George Stephanopoulos, for his part, was unfair and baiting. He was being a wise guy looking for and getting a momentary gotcha moment, not an unbiased journalist. This is why you, the public, must take the time to watch all of any interview for context. If it's deceptively edited, you will have to wait for the truth to come out.

A conversation with a foreigner about a candidate is "not" a contribution, so there would be no need to report a crime to the FBI.

A commissioned opposition research report, that cost \$50,000 to research and compile, printed and bound, handed to a campaign by a foreigner — that would be an illegal in-kind contribution worth the \$50,000 it cost to produce. Sound familiar?

But Stephanopoulos was asking the president about "information" communicated verbally, like the many daily conversations we all have, and sometimes with foreigners.

ENERGY & ENVIRONMENT
— 36M 24S AGO

VIEW ALL

View Latest Opinions >>

Related News by |



Democrats' 2020
Achilles's heel: The...



The rise of Elizabeth
Warren spells bad



We Can Guess Your
Education Level With...
Sponsored | Offbeat



Tulsi Gabbard has a
future in politics — but...

There's a very good chance that the Washington, D.C., inner circle comprised of House and Senate members on both sides of the aisle, influencers and their global support system did not like the blunt truth. For example, what do you think happens on Congressional Delegations trips, aka codels? They do love their acronyms inside the Beltway. It's the language of the legislative and bureaucracy.

This is a key legal point. Those conversations, even if helpful and informative, have no measurable or quantifiable "value," and the law says a "contribution" is a "thing of value."

Special counsel Robert Mueller ultimately determined he could not place a "value" on a conversation in Trump Tower.

Many in the press keep focusing on the Mueller statement that Donald Trump Jr. escaped prosecution because it would be difficult to prove he knew his meeting was illegal. They suggest the meeting was in fact illegal, he just didn't know it, as if he got off on a technicality. This not an accurate summary of Mueller's report.

Mueller detailed several reasons why the meeting fell into a gray area and might not have been a crime at all. Any monetary "value" could not be calculated, which is key to defining a "contribution."

After devoting enormous time and resources examining the Trump Tower meetings and all the substantive problems with discerning a violation of law, Mueller then observed how difficult it would be to prove that Donald Trump Jr. would have known the meeting violated the law.

The report is available and you should take the time to read it. Democrats and the anti-Trump crowd are hoping you do not invest the time. Invest your time, because the return on your investment is peace of mind and clarity.

Many in the press are now deliberately or through willful ignorance distorting Mueller's conclusion. To borrow and twist a famous modern legal adage — if the facts do not fit, use a narrative to publicly convict.

Webb is host of "The David Webb Show" on SiriusXM Patriot 125, host of "Reality Check with David Webb" on Fox Nation, a Fox News contributor and a frequent television commentator. His column appears twice a month in The Hill.

TAGS GEORGE STEPHANOPOULOS DONALD TRUMP JR. ROBERT MUELLER DONALD TRUMP

SHARE

TWEET



Mr. BIGGS. Thank you, sir.

I am intrigued, quite frankly, at the title of this hearing. I represented NGOs at the United Nations and other multilateral institutions. I served in a State legislative body for 14 years and was the Senate president in Arizona for 4 years and the majority leader for 1. And I've sat on this committee now for—we're at the 2½-year mark, I suppose. And I just—I find it intriguing, what's happened today.

I've not seen hearings conducted in this fashion before in all that, whether it be at the international level, State level, and, actually, the other committees I sit on and subcommittees. In fact, I was a subcommittee chairman for the last 2 years. This has been intriguing to me, to watch, in my opinion, the devolution of the process in some ways.

But I will say this. One of the lessons I've learned is that we all see things that we want to see and we all miss things that we want to miss when we look at indications. But the one thing that rang out to me is that none of these witnesses has any—they're not witnesses to any material fact. They're providing impressions and ideas about what they read in the Mueller report. And that's okay. That's fine.

But I think Ms. Cordero—and I wrote down a quote from her—said that no one should be a beneficiary of foreign operations—excuse me—no political campaign should be a beneficiary of foreign operatives. Professor Hasen said that opposition research from foreign operatives would be illegal.

And one of the things that I always thought was interesting about that is that, in 2016, the Clinton campaign and DNC used Perkins Coie, a politically connected, influential law firm, essentially as a pass-through to pay Fusion GPS. And Fusion GPS co-founder was Glenn Simpson. He hired Christopher Steele.

Steele's a British citizen, a foreigner, a foreign operative in some ways. Steele was working at that time as an FBI informant for the Obama Justice Department and representing Russian oligarch Oleg Deripaska. That's what was going on there.

Hillary Clinton's campaign manager, Robby Mook, boasted about accepting dirt on Donald Trump furnished by Mr. Steele, probably sourced by criminally linked associates. That would be illegal. That would be wrong.

That is something that you can gather from the Mueller report, but we're not discussing that. But I think we should. I think we should.

And I also think that we ought to give more than an hour and 20 minutes to review our witnesses' testimony instead of popping it up to us at the last minute with a change of topic.

With that, I'm out of time, and I yield back.

Chairman NADLER. The gentleman yields back.

The gentleman from California, Mr. Lieu.

Mr. LIEU. That's fine.

Chairman NADLER. Did the witness—

Mr. HASEN. I wanted to respond to that, if I could.

Chairman NADLER. Please do.

Mr. BIGGS. Point of order. There was no question before any of these witnesses.

Mr. HASEN. I wanted to respond to that question.

Chairman NADLER. I have always permitted witnesses to answer the last question and——

Mr. COLLINS. But there was no question.

Chairman NADLER [continuing]. To make comment on relevant——

Mr. COLLINS. No, no, no, no, no.

Chairman NADLER. The witness will—the witness may proceed.

Mr. COLLINS. Nope.

Mr. BIGGS. Parliamentary inquiry then. Under what rule, Mr. Chairman, are we operating then?

Mr. LIEU. I'll solve this. I'll talk. I'll ask him. Just give me the time.

Chairman NADLER. The witness may proceed.

Mr. LIEU. Okay.

Mr. HASEN. I just wanted to respond to a characterization that I said that opposition research from a foreign source is illegal. That's not what I said. I said the contribution of this would be illegal. Paying market rates is not illegal.

And I'd point you to footnote 17 of my written report, which quotes from the Republican House Permanent Select Committee on Intelligence, which wrote: "Under current Federal law, foreigners are prohibited from making contributions or donations in connection with any campaign in the United States. However, it is not illegal to contract with a foreign person or foreign entity for services, including conducting opposition research on a campaign, so long as this service was paid at the market rate."

And this was made in the context of the Steele dossier.

Chairman NADLER. I thank the witness for serving the committee by clarifying that point.

The gentleman from California.

Mr. LIEU. Thank you, Mr. Chair.

Professor Hasen, you had earlier stated that you believe Special Counsel Mueller did not go far enough in exploring possible violations of the Federal election laws. I agree with you. As you know, under the Federal Election Campaign Act, it's illegal for a person to solicit, accept, or receive a contribution or donation. And then it defines that as money or other thing of value. And the Mueller report defines opposition research as a thing of value.

So let's talk about the infamous Trump Tower meeting. On June 3rd, 2016, an email was sent to Donald Trump, Jr., that basically said documents would incriminate Hillary and her dealings with Russia. And it goes on to say that "this is obviously very high-level and sensitive information but is part of Russia and its government's support for Mr. Trump."

A few minutes later, Donald Trump, Jr., replied, "If it's what you say, I love it, especially later in the summer."

Professor Hasen, that could be read as soliciting a thing of value from foreign power, correct?

Mr. HASEN. Yes. And when that information came to light well before the Mueller report, I said that the next step needs to be an investigation. Donald Trump, Jr., and others at the meeting need to be under oath to figure out what exactly they knew about the

state of the law, what they thought they were getting. And that could potentially be a criminal campaign finance violation.

Mr. LIEU. And, in fact, you believe it was not a good idea for the Mueller team to not have had Donald Trump, Jr., testify before the grand jury, correct?

Mr. HASEN. Exactly.

Mr. LIEU. All right. You believe it would be appropriate, then, for Congress to put Donald Trump, Jr., under oath and ask him questions about that meeting, correct?

Mr. HASEN. Absolutely.

Mr. LIEU. Okay.

We now have a recent TV interview that the President gave to George Stephanopoulos—and you see the slide—where George Stephanopoulos asked the President about opposition research, and the President says: You want that kind of interference in our elections. If they have information, I think I'd take it.

What the President described could also be criminal conduct, a violation of Federal election campaign laws, correct?

Mr. HASEN. So, if you take what he said seriously as a solicitation, then it is potentially a violation of campaign finance law, yes.

Mr. LIEU. And there is no Norway exception to our campaign finance laws, right? That even if it's from a friendly ally, you can't take a campaign donation from a friendly ally; isn't that right?

Mr. HASEN. Right. So the statute prohibits accepting anything of value from a foreign government, hostile or friendly, or from a foreign entity, like a political party or a company, and from a foreign individual.

Mr. LIEU. Thank you.

Professor Prakash, I'd like to talk to you a little bit about absolute immunity. So let me set this up.

The Trump administration has engaged in unprecedented obstruction of Congress' attempts to get information on behalf of the American people. And it's not just in the Mueller report; it's in every line of inquiry.

So, for example, we want to know, why is the Trump administration currently suing to eliminate healthcare coverage for Americans with preexisting conditions? We can't get that information. And we want information on why Wilbur Ross lied regarding the U.S. Census. Can't get that information.

Now, specific to the Mueller report, we interviewed Hope Hicks yesterday. We can't get Don McGahn in. And with both of those witnesses, the White House is exerting what they call absolute immunity, preventing Hope Hicks from testifying about anything related to her time at the White House, including something as simple as, where was your office located?

So they were not asserting executive privilege, which, Professor Prakash, you have said you believe doesn't exist as a matter of law within the courts or under the Constitution. I would assume that this broader thing called absolute immunity you would also agree is something that is not within the Constitution. Could you talk about that?

Mr. PRAKASH. I'd be happy to, Representative.

As you know, the past several administrations have claimed that people who aren't subject to advice and consent and who are in the

White House don't have to testify. And so the Bush administration, the Obama administration, now the Trump administration are taking the same line.

Mr. LIEU. And what is your view of absolute immunity?

Mr. PRAKASH. I don't believe they have an immunity. I don't believe they had it during the Obama administration; I don't believe they have it now.

Mr. LIEU. Thank you.

And today you're the minority witness? The Republicans called you to testify today? Is that right?

Mr. PRAKASH. Yes.

Mr. LIEU. Okay.

So let me conclude.

To Ms. Cordero, you earlier have said that the Russians were crawling all over the Trump campaign, and the Trump campaign officials knew about Russia interference.

Based on your work in national security, it would be a dereliction of duty, wouldn't it, for our FBI law enforcement not to have investigated that as a counterintelligence issue and to try to do whatever they can, including surveillance, to figure out exactly what happened so they have Volume I of the Mueller report?

Ms. CORDERO. Absolutely. First of all, they absolutely had a duty to investigate Russian interference. There's no question about that.

Then, when they received reliable reporting and other facts that would have come in that justified opening an counterintelligence investigation to find out whether there was ties to the Trump campaign, they had a responsibility to do that.

Counterintelligence investigations start one place. They don't necessarily end up where one might expect them to go. They're not a criminal investigation where the outcome is to determine whether or not to prosecute someone. Their goal is to collect the foreign intelligence information to protect the United States and to be able to counter those efforts.

So I haven't seen anything in the public record, including in the report, that indicates that there was any ill will or malfeasance in the use of investigative techniques to conduct this investigation.

Mr. LIEU. Thank you.

I yield back.

Chairman NADLER. The gentleman yields back.

Mr. COLLINS. The gentleman from—

Mr. Chairman.

Chairman NADLER. The gentleman from Georgia is recognized for a unanimous consent request.

Mr. COLLINS. Thank you, Mr. Chairman.

In light of a statement made from our friend from Tennessee earlier about using the word "collusion" and not reading the report, I would like to enter into the record multiple pages of not only tweets but stories and articles of almost most of the members on the Democratic side of the aisle, including the chairman and many others, using the word "collusion," saying, actually, collusion found in plain sight.

So this is—we're not going to be lectured to by the same ones using the same language. I ask unanimous consent—

Chairman NADLER. I would be happy to not object to the inclusion in the record of the truthful information that collusion was in plain sight. Without objection.
[The information follows:]

**RANKING MEMBER COLLINS FOR THE
OFFICIAL RECORD**

Shelia Jackson-Lee:

Important article for anyone concerned about the rule of law. It reveals that @realDonaldTrump reached out to @MattWhitaker46 to replace the top prosecutor in #SDNY - part of a sustained pattern of possible #obstructionofjustice #trumprussia #collusion

2/20/19

Twitter: <https://twitter.com/JacksonLeeTX18/status/1098233974084812801>

Retweeted The Hill

.#RogerStone's arrest is more proof that

@realdonaldtrump campaign & associates colluded with Russia to subvert our elections & then lied to Congress. The House must investigate to ascertain what he knew, why he lied & who he's protecting. America deserve answers! #trumprussia

1/25/19

Twitter: <https://twitter.com/JacksonLeeTX18/status/1088831866411671552>

Incredible. @realDonaldTrump suborned #perjury so that @MichaelCohen212 would lie to #Congress and obstruct its investigation into whether a hostile foreign power subverted our democracy-oh, and his campaign may have colluded, too #trumprussia #Collusion

1/17/19

Twitter: <https://twitter.com/JacksonLeeTX18/status/1086116555287601152>

Retweeted Jon Favreau

Hey @GOPLeader - kinda how you investigated @HillaryClinton's emails for years, & actually went on TV to say you created a panel to politicize the deaths of Americans for the purpose of affecting Secretary Clinton's chances at being elected

@POTUS? #trumprussia #Collusion

Twitter: <https://twitter.com/JacksonLeeTX18/status/1072195105707175939>

Jerry Nadler:

"We know there was collusion with people in the campaign with Russians."

3.24.19

Newsweek: <https://www.newsweek.com/collusion-trump-russia-nadler-mueller-1373358>

Nadler:

The following is a transcript of the interview with Democratic Rep. Jerry Nadler of New York that aired Sunday, April 7, 2019, on "Face the Nation."

MARGARET BRENNAN: So do you actually then reject the entire summary? Do you believe there is possible criminal collusion?

REP. NADLER: Well, the attorney general said there was no there was no- there was no obstruction of justice. He decided that. Mueller did not say that.

MARGARET BRENNAN: Right- and you're dismissing what he has said.

REP. NADLER: I dismiss what he said. He's a- he's a biased defender of the administration and he's entitled to be defending the administration but he is not entitled to withhold the evidence from Congress and by the way let me repeat one other thing. When you say there's no- no when he says there's no collusion there may very well not have been evidence beyond a reasonable doubt which is a very high judicial standard of criminal conspiracy with

the Russians. But there was in plain sight open collusion with the Russians when the president's son and campaign manager and son in law go to a meeting with the Russians to receive quote dirt on Hillary as part of the Russian government's attempt to help the Trump campaign. And that was in the email inviting them to the meeting.

MARGARET BRENNAN: Right.

REP. NADLER: They go to the meeting. They said--

MARGARET BRENNAN: But- but that didn't--

REP. NADLER: --they didn't want that information. That is collusion. whether it's criminal conspiracy is another question--

MARGARET BRENNAN: Right.

REP. NADLER: But certainly--

MARGARET BRENNAN: And it was that- it was on that question--

REP. NADLER: --the moral collusion--

MARGARET BRENNAN: --of criminality whether it could be prosecuted that the report was turned in. Those were the conclusions there made. I mean it- it sounds like when you are referencing what was the reporting from the New York Times and The Washington Post about some of Mueller's investigators feeling that their- their impressions and their conclusions were not accurately portrayed in the attorney general's summary. Are you going to call those investigators before the committee. Are you going to talk to any of them?

REP. NADLER: After we read the information in the- in the report we'll make the decision as to whether that is necessary. After we read the- the information in the report we'll probably want to call Mueller to discuss it. We'll be having Barr in front of the committee before that but certainly reading the- the report and the underlying evidence will give us more information as to what questions we should ask Mueller or any of the other people who worked with him.

4.7.2019

CBS News: <https://www.cbsnews.com/news/transcript-rep-jerry-nadler-on-face-the-nation-2019-04-07/>
<https://app.criticalmention.com/app/#clip/view/bce183ba-2773-4ebc-ac02-c21ed3f0a133?token=3e99af18-cbb9-47d2-b208-ee3b9d5631a6>

Nadler:

We do know, remember, in plain sight, of a lot of collusion," Nadler said. "We know, for example, that the president's son and his campaign manager were present at a meeting with the Russians to receive information which they were told in the invitation was part of the Russian government's attempt to help them in the election."

3.24.19

The Hill: <https://thehill.com/homenews/media/435486-foxs-chris-wallace-challenges-nadler-on-if-no-more-indictments-means-no>

Nadler:

"We know there was collusion. Why there's been no indictments we don't know," he said, pointing to the president's son Donald Trump Jr. and Trump campaign chairman Paul Manafort meeting with Russians during Trump's presidential campaign.

The Justice Department confirmed that there are no additional indictments recommended in Mueller's report. However, Nadler said there have "clearly" been obstructions of justice in Mueller's investigation.

"We know that the president pressured the FBI to go easy, to stop investigating Flynn and various other people, we know he fired the FBI director to, as he put it to NBC, to take care of the Russian thing in order to stop the investigation of various people associated with him, we know he concocted the lie about the purpose of that Russian meeting" in Trump Tower in summer of 2016, Nadler said.

3.24.19

The Hill: <https://thehill.com/homenews/sunday-talk-shows/435472-nadler-house-will-go-to-supreme-court-to-obtain-full-mueller>

Nadler:

"way too early" to talk about impeachment and that Congress needs to investigate "all the evidence" before it can move forward.

"Our mandate is not to impeach the president," "We have to look into abuses of power. Obstruction of justice." Regardless of the special counsel's findings, wrongdoing had already been made public," "Maybe it's not indictable, but we know there is collusion. And the question is to what degree and for what purpose."

3.24.19

Business Insider: <https://www.businessinsider.com/democrats-mueller-report-supreme-court-2019-3>

Nadler:

The congressman also said his committee won't wait for Mr. Mueller to finish his probe and can start to investigate whether the 2016 election was rigged or compromised, specifically referencing potential Russian collusion and hush payments made by then-candidate Donald Trump to women alleging affairs.

1/4/19

Washington Times: <https://www.washingtontimes.com/news/2019/jan/4/jerry-nadler-top-judiciary-committee-dem-says-hell/>

Nadler:

John Harwood: Is that an argument that you can make the American people see and understand and accept?

Jerry Nadler: I think so. I mean, we have to hold hearings, and we have to get people to testify. And not just on the collusion with the Russians and obstruction of justice, but in all kinds of issues where they're refusing to – we can't get information about the family separation policy at the border about carrying kids out of people's arms.

John Harwood: If there's a larger issue about him and his conduct, what is it?

Jerry Nadler: Well, you've got three issues, really. There was tons of evidence that they knew the Russians were interfering with the election on their behalf. They welcomed it, they wanted it, and they coordinated with it. And the second clear conclusion is there are 12 episodes of obstruction of justice. Beyond all that, is the basic question because the administration does not want this information because they want all information kept. They are refusing all subpoenas, they are telling private parties don't give information to Congress. They are trying to say that Congress representing the American people, can't get information, and therefore, can't function. The effect of that, whether the President realizes that or not I don't know, but the effect of that is to make the President a monarch, to make him a dictator. That is the biggest constitutional crisis and that's what we've got to fight.

Jerry Nadler: If you read the Mueller report, maybe there wasn't the evidence sufficient to prove beyond reasonable doubt, criminal conspiracy, but there was tons of evidence that they knew the Russians were interfering in the election on their behalf, they welcomed it, they wanted it and they coordinated with it. Colluded in a word. There's no question about that. Colluding with a foreign power to rig an American election. There's no question.

John Harwood: Despite Bill Barr saying over and over, "no collusion."

Jerry Nadler: Bill Barr is just a liar. And, he's just representing the President. I mean, when he put out his interpretation of the report, and then kept it from everybody for four weeks so that it could come into effect, you saw that.

John Harwood: You actually think Bill Barr is just lying, as opposed to being a defender of the person who put him in the Attorney General's job?

Jerry Nadler: I'm not sure what his motive is. You could have two interpretations of Bill Barr's motives. One, the less charitable interpretation is he's doing whatever he has to do, to protect the President personally. And he'll hide whatever he has to hide. He will misrepresent – we know he misrepresented. Lied may be too strong a word, but he certainly misrepresented very strongly what was in the report. And one interpretation is that he is doing it to protect the President, that is why he is there. Different interpretation – and that is why he wrote that 19-page memo auditioning for the job. The more charitable interpretation is that he simply believes in the so-called unitary theory of government, and this tyrannical theory that the President can never – any President cannot obstruct justice, that as long as he believes that he didn't do anything wrong, he can stop an investigation. Which is a terrible doctrine because it would mean that you can't investigate any President for doing anything. And that he wrote this 19-page memo to vindicate that point of view. And that he is acting now to protect that point of view. Basically, the point of view being that the President should be a monarch. Which is very dangerous.

John Harwood: Which of those two outcomes do you believe?

Jerry Nadler: I don't know. But they're both dangerous. One would have him being very dishonest, the other would have him being honest but very dangerous to the republic. I mean, to accept that view, assuming he holds it and he is pushing that view – whether he holds it sincerely or not, I don't – I assume he does. But to accept that view no matter how sincerely held, is to accept a President as a dictator and to change the form of government in this country.

5/15/19

CNBC: <https://www.cnn.com/2019/05/15/cnn-digital-video-representative-jerry-nadler-sits-down-with-cnn-editor-at-large-john-harwood.html>

Nadler:

all we know is that the special counsel -- what we think we know is that the special counsel is not bringing criminal indictments for collusion. there are other investigations going on which he has farmed out to the southern district of new york, eastern district of virginia and they may or may not. we do know, remember, in plain sight of a lot of collusion. we know, for example, that the president's son and his campaign manager were present in the meeting with the russians to receive information which they were told in the invitation was part of the russian government's attempt to help them in the election. we know that the campaign manager gave targeting data, political targeting data to an agent of the russian government. we know a lot of things and maybe it's not indictable, but we know there was collusion. the question is to what degree and for a purpose -- >> chris: excuse me, that's the point i was going to make. jared kushner was not charged for that, paul manafort wasn't charged. don jr. wasn't charged. so it would seem that there was no criminal collusion among them, so it would seem to clear the president, wouldn't it on that issue? >> representative nadler: know it would not. "the washington post" has story today which says that in counterintelligence investigations, because of the way they are done and because of way counterintelligence works, very often they do not lead to criminal prosecutions, but these are additional reasons we have to see the report. the entire country, the public needs to see the entire report so we can see what the special prosecutor says about these questions. right now is very speculative. >

3.24.19

Fox News Sunday <https://app.criticalmention.com/app/#clip/view/ec1a7d52-3ad8-41e9-81d4-284f74e98f6f?token=3e99af18-cbb9-47d2-b208-ee3b9d5631a6>

Nadler:

"We would like to thank Special Counsel Robert Mueller for his service to our nation over the past two years. In his statement this morning, Special Counsel Mueller reaffirmed his report, which found substantial evidence that Russia attacked our political system and that the President sought to obstruct Mueller's investigation over and over again. He also confirmed three central points: he did not exonerate the President of the United States of obstruction of justice, obstruction of justice is a serious crime that strikes at the core of our justice system, and the Constitution points to Congress to take action to hold the President accountable.

"Although Department of Justice policy prevented the Special Counsel from bringing criminal charges against the President, the Special Counsel has clearly demonstrated that President Trump is lying about the Special Counsel's findings, lying about the testimony of key witnesses in the Special Counsel's report, and is lying in saying that the Special Counsel found no obstruction and no collusion. Given that Special Counsel Mueller was unable to pursue criminal charges against the President, it falls to Congress to respond to the crimes, lies and other wrongdoing of President Trump – and we will do so. No one, not even the President of the United States, is above the law."

5/29/19

Judiciary Dems: <https://judiciary.house.gov/news/press-releases/charman-nadler-response-special-counsel-muellers-statements-conclusion>

Nadler:

you just heard sarah sanders. she said the white house reading of the mueller report and the attorney general's reader of the mueller report is that he left the decision of obstruction to the attorney general who made it rightly. >> that's just wrong. it's another one of the lies that sarah sanders and the — lots of people in the administration have been making. mueller, the special prosecutor, made very clear that he couldn't reach a determination on obstruction of justice basically because of certain justice department guidelines which didn't allow him to do that but that he laid it out for congress — for congress to do, not to the attorney general. the attorney general has revealed himself, barr has revealed himself as an agent of the president. he's a defense attorney for the people. he kept — he clearly misled over a period of four weeks from march 24th right through his press conference yesterday, he consistently misled the american people as to what was in the report. he said that they found no collusion whereas the special prosecutor specifically said collusion is not a legal term and he didn't make any findings that we hadn't reached a finding on criminal conspiracy. >> do you accept that finding from robert mueller that there was no criminal conspiracy? >> well, he wasn't able to prove a criminal conspiracy and one of the reasons he said he wasn't able to do it was that lots of people destroyed evidence, perjured themselves, so i accept his conclusion that he couldn't prove it. >> based on the reading, 188 pages of evidence or so on obstruction of justice, do you believe the president committed obstruction of justice? >> i believe he committed obstruction of justice, yes, but it's not up to me. it's up to — >> you're the chairman of the judiciary committee. you can open impeachment proceedings. >> well, we're not there. we have to now, because the special — because barr misled the country, we have to hear from barr which we will on may 2nd. we have to hear from mueller and ask him a lot of questions. we have to hold hearings and hear from other people both on the question of obstruction of justice, whereas i said the special prosecutor invited congress to look into that, not the attorney general. we have to look into all that. we need the entire report unredacted and the underlying documents in order to make informed decisions. after we get that — and we will subpoena that entire report today. >> that subpoena is coming today? >> that subpoena will come in the next couple of hours. >> including the grand jury evidence? >> including the grand jury evidence, yes. because we have to see the entire report. by the way, in every previous instance, congress has seen all the evidence. the attorney general in previous instances both with clinton, with nixon, went to court with the — >> but that's not going to happen here and a lot of legal experts believe you would be on much stronger ground to get that grand jury evidence if you actually opened an official impeachment proceedings. >> yes, some people believe that. i believe that one of the things that we need that evidence for is to determine whether to do that or not. we have to determine what the proper course of action is to deal with a president who's been shown in this report, very clearly shown, to lie all the time, a culture of lying, to have if not colluded — well, in the plain meaning of the term colluded with the russians, not the criminal conspiracy. one of the things that the special prosecutor finds is that the russians were clearly out to help trump, that the trump campaign knew about it and welcomed their assistance and in some cases new about what they were going to do, what wikileaks was going to do in advance. they couldn't prove criminal conspiracy but there's certainly

Apr 19, 2019
 Good Morning America
<https://app.criticalmention.com/app/#clip/view/fdfd7559-67e7-4fb1-a6f3-73984a918624?token=3e99af18-cbb9-47d2-b208-ee3b9d5631a6>

Eric Swalwell:

In our investigation, we saw strong evidence of collusion.
 3.16.2019.

Washington Examiner: <https://www.washingtonexaminer.com/news/eric-swallow-wont-back-down-from-trump-russia-collusion-claims-he-can-sue-me>

Swallowwell:

"I have seen the Trump campaign for myself and others and to that, I would say the only person who has made false statements about Russia is Donald Trump," Swalwell told MSNBC. "I stand by what I said about seeing evidence of collusion. If he has a problem with that, he can sue me. And I promise you I would win in court."
 3.26.19

Washington Times: <https://www.washingtonexaminer.com/opinion/rep-eric-swallow-contradicts-mueller-report-says-he-has-personally-seen-evidence-of-russian-collusion>

Swallowwell:

Swallowwell claimed in 2017 that he personally had seen "things on the classified side that" are "even stronger evidence" the Trump campaign colluded with Russia. The congressman claimed later in November 2018 that "we are seeing the evidence that there was a conspiracy to cover up" Russian collusion. He also alleged in January, without evidence, that "it's pretty clear" and that it's "almost hiding in plain sight" that the president is a foreign agent working on the behalf of Russia.
 3.26.19

Washington Examiner: <https://www.washingtonexaminer.com/opinion/rep-eric-swallow-contradicts-mueller-report-says-he-has-personally-seen-evidence-of-russian-collusion>

Swallowwell:

Obviously, we know there was some collusion." After the report's release, Nadler tweeted he wanted Barr to quickly testify before Congress to explain what the lawmaker called "very concerning discrepancies and final decision-making at the Justice Department following the Special Counsel report."
 3/25/19

Chicago Tribune: <https://www.chicagotribune.com/news/nationworld/ct-mueller-report-reaction-20190325-story.html>

Mary Gay Scanlon:

"If you think there is no collusion and no obstruction, you have not read the Mueller Report. I am not afraid, I am profoundly saddened," said Scanlon. "We have an administration acting not just in contempt of Congress and the rule of law but the American people."
<https://www.usatoday.com/story/news/politics/2019/05/08/key-moments-house-judiciary-hearing-hold-ag-barr-contempt/1141380001/>

Madeleine Dean:

the "new york times" reporting that bill barr had numerous conversations with the white house. briefing them on some level, the white house lawyers, about what will be released today. what do you think? >> wholly inappropriate. can you imagine i read that reporting as well and the committee has seen the reporting. over the course of the last week, maybe

more the white house and attorney general barr have been cooperating, dare i say cocolludico collu -- colluding? t this is a lot of distraction and a lot of division in order for us -- maybe this day before a couple of important holy days in this country to hope that the american people won't want to focus on the report. but the judiciary committee will do its job. we're going to get the full report >> let's talk about that. what are democrats' plans after today, after the report comes out. nancy pelosi and chuck schumer said they want to hear directly from robert mueller. what's your next move? >> we are in the majority. chairman nadler has the gavel and subpoena power. i'm confident that we will be subpoenaing barr and mueller. we want -- mueller, we may not need a subpoena >> do you think he'll voluntarily come? >> i hope he will. i think he might. he's probably confident in his work and knows the role congress has to play in terms of oversight. i feel confident that mr. mueller and he'll be the more important person to hear from. barr just came to the party recently and is in it to protect the

CNN

<https://app.criticalmention.com/app/#clip/view/65d3c255-9ebd-409e-92dd-8624af7a1cc7?token=3e99af18-cbb9-47d2-b208-ee3b9d5631a6>

Chairman NADLER. The gentleman from—the gentleman from—

Mr. COLLINS. And be wrong. That's pretty good.

Chairman NADLER. Okay.

The gentleman from Maryland, Mr. Raskin, is recognized.

Mr. RASKIN. Thank you, Mr. Chair.

Mr. Biggs and other colleagues chide us for having law witnesses instead of fact witnesses today, which is absolutely astounding given that they understand that the administration has blocked all of the fact witnesses from coming and have even invented a completely fanciful new doctrine of absolute immunity of executive branch employees to testify before our committee.

But if they would work with us to get these fact witnesses and have them actually testify, then we would not have to simply rely on the reading of the Mueller report.

But let's talk about the reading of the Mueller report quickly before my questions. Our colleagues return today with the absurd and discredited mantra of "no collusion" and "no obstruction." The ranking member just, I think, missed the point about no collusion.

If you read the report, if you get to, I think, just page 2 in the report—you don't have to read the whole thing. Just get to page 2, and you will see Special Counsel Mueller says: We don't address the question of collusion, which is not a criminal legal concept. It is a legal concept in the antitrust field, but it doesn't play a role in criminal law.

And so that's a matter of everybody's opinion. Now, 157 contacts between members of the Trump campaign and Russian nationals and their agents, I think, could lead people to say that there was collusion. But that is a matter of opinion, and everybody can have their own opinion on it. But to come out and say that Mueller found no collusion is absolutely absurd.

Secondly, "no obstruction" flies in the face of 10 different episodes of Presidential obstruction of justice, probably 3 or 4 of them that would be prosecutable but for the Department of Justice policy that the President can't be indicted.

That's why Special Counsel Mueller actually had a press conference to clarify that the reason that the President was not indicted had a lot to do with the fact that there's a Department of Justice policy that you don't indict a sitting President.

Now, Dr. Polyakova, let me come to you. I think it is scandalous and outrageous and dangerous that the President would say, in the wake of Special Counsel Mueller's finding that there was sweeping and systematic efforts by Russia to interfere with our elections, to destabilize our elections, and to control the outcome of our elections, that he would gladly accept opposition research from Russia or other foreign governments.

What effect do you think this will have on Russia, that the President made that statement even in the wake of the special counsel's report?

Dr. POLYAKOVA. I believe that sends a clear signal there's still an open door for continued interference in our elections, not just to Russia but to other state and nonstate actors who would seek to interfere in those ways.

Mr. RASKIN. There's an open door; that might be the implication of it. Thank you for your answer.

Ms. Cordero, what does it mean to a power like Russia, which militarily cannot compete with America, economically can't compete with American, and they can't compete with what I think are the real ideals and organizing principles of our democracy—but what does it mean to them to be able to use the internet to destabilize our elections if they feel there's an open door given by people at the highest levels of government?

Ms. CORDERO. What the report shows and documents is that the Russian intelligence services used our technology, U.S. companies' technology platforms, to spread disinformation. They purchased ads that were unknown to the viewers of that information. They pretended to be individuals who were grassroots activists. They actually set up—tried to organize rallies and real-world events, so it was the virtual real world spilling into the physical world.

And so they use the technology platforms. And what the Senate Intelligence's investigation into this has shown is that the companies have provided some information but I think we still don't have a full picture of the way that Russian, as an intelligence service, and other hostile intelligence services are using U.S. technology platforms.

Mr. RASKIN. Thank you.

Professor Hasen, operation research is a thing of value, according to the Federal Election Commission. Foreign governments are forbidden to interfere in our campaigns by making contributions. As you've pointed out, they could sell information at market rates if they go in the business of doing opposition research. But if they give it to a campaign and the campaign accepts it, it becomes an illegal foreign contribution under the Bluman decision, where the Supreme Court upheld the law against foreign contributions in our elections.

What can be done, legislatively, administratively, to deal with a political actor who says he would break the law in this way by welcoming foreign assistance in the course of a Federal election?

Mr. HASEN. Well, there can be civil complaints filed with the Federal Election Commission as far as any criminal claims.

If we're talking about the sitting President, I think we run into issues related to whether or not the President can be brought up on charges when he's President.

But for anyone else, to the extent that you can show willfulness of trying to solicit something of value—and I think “of value” is worth over \$25,000—we're talking about someone committing a felony—

Mr. RASKIN. And is there anything—

Mr. COLLINS. Regular order.

Mr. RASKIN. Is there anything more that could be done legislatively?

Mr. COLLINS. Regular order.

Chairman NADLER. The gentleman will proceed under regular order.

Mr. RASKIN. Is there anything more that is indicated to be done legislatively—

Mr. COLLINS. Mr. Chairman, point of order.

Mr. RASKIN [continuing]. Or do you think we potentially have done everything—

Mr. COLLINS. Point of order.

Chairman NADLER. I will recognize your point of order when the gentleman is finished.

Mr. COLLINS. That's not when you recognize point of orders.

Chairman NADLER. Point of order.

Mr. RASKIN. If the witness can answer the question.

Chairman NADLER. The gentleman will state his point—

Mr. RASKIN. Ignore the antics, please.

Mr. COLLINS. It's not antics when you do the rules.

Mr. HASEN. I think there are—

Mr. COLLINS. Mr. Chairman—

Mr. RASKIN. We had a ruling from the chair.

Mr. COLLINS [continuing]. A point of order.

Chairman NADLER. The gentleman—

Mr. RASKIN. The chair said I could complete the question.

Chairman NADLER. The gentleman will state his point of order.

Mr. COLLINS. You can't ignore—

Chairman NADLER. The gentleman will state his point of order.

Mr. COLLINS. I make a point of order, that under clause 2(j) of rule 11, the gentleman's time has exceeded his time under the 5-minute rule.

Chairman NADLER. And I will rule that it has been the practice here to be flexible with the 5 minutes on both sides and always to permit someone to answer the question once it has been stated.

Mr. COLLINS. When it is—

Chairman NADLER. The gentleman—

Mr. COLLINS. Do you want me to appeal this?

Chairman NADLER. If you want to—

Mr. COLLINS. I'm—

Chairman NADLER. The gentleman's time has expired. The witness may answer the question.

Mr. COLLINS. He had answered the question. He was answering another one. He had answered the previous question and was—

Chairman NADLER. The gentleman may answer the question he was answering.

Mr. COLLINS. It was a new question.

Chairman NADLER. The gentleman may answer the question he was answering.

Mr. COLLINS. I'm getting ready to appeal this and you're going to bring everybody back.

Chairman NADLER. All right. The gentleman's time has expired. Who's next?

The gentlelady from Washington, Ms. Jayapal, is recognized.

Ms. JAYAPAL. Thank you, Mr. Chairman.

Mr. Hasen, why don't you quickly respond to Mr. Raskin's question. But it is my time, so be quick.

Mr. HASEN. The very quick answer is, yes, including a law that would require campaigns to disclose foreign contacts would be a very good place to start.

Ms. JAYAPAL. Thank you.

Ms. Cordero, you in your testimony said something that I think was very important. You said—and this was your written testi-

mony. You said we have not done a good enough job explaining to the American public why foreign influence matters.

Can you tell me quickly and anybody that might be watching your top three reasons for why foreign influence matters?

Ms. CORDERO. Foreign influence matters because it affects the decisions that we make about how we self-govern. It goes to the heart of our democracy.

So, in order for the—to receive—if there's foreign influence, then it affects how we interact with each other. If we're the recipients of online disinformation from a hostile intelligence service, that affects, as society, how we deal with each other.

Another example is, if there was foreign interference in actual candidates, that determines who sits here in this body. It affects who we elect as candidates.

So these are just a couple examples. I've explained more in the written statement. But it goes to the heart of our democracy and the ability of us to self-govern in a way that is in our American interests and not in a foreign country's interests.

Ms. JAYAPAL. You also stated that the early reporting and reaction to the report was skewed as a result of specific actions taken by the Attorney General. And I wanted to give you a chance to just explain that. And then I have a question for you about the Attorney General and his role.

Ms. CORDERO. Sure.

So, as Congress is aware, the Attorney General issued a short summary letter that was sent to Congress before the release of the actual report. That letter did not explain what the special counsel actually did with respect to obstruction. In other words, the letter gave a misimpression to the public, which then lasted for weeks, even amongst those of us who follow this stuff fairly closely—left a misimpression that perhaps the reason this special counsel didn't make a charging decision was because the evidence was insufficient.

Ms. JAYAPAL. And, in fact, what did the special counsel do when he heard the Attorney General's reaction or explanation of what was in the report?

Ms. CORDERO. Immediately the—we now know that the special counsel sent a letter and the summaries which are prepared in the report, which are short summaries that the public can read, he sent those summaries to the Attorney General, asked him to reveal those publicly. The Attorney General did not do so. And so—

Ms. JAYAPAL. And, for weeks, said he didn't have the information he needed to go back and redact. And so the public was denied of that information and, in fact, misled about what was in the report.

Who is the Attorney General supposed to represent, Ms. Cordero?

Ms. CORDERO. The Attorney General has an oath to the Constitution of the United States.

Ms. JAYAPAL. Is the Attorney General the personal attorney for President Trump?

Ms. CORDERO. No.

Ms. JAYAPAL. And in the role of the chief law enforcement officer for the American public, if an Attorney General attempts to skew the perception of the Mueller report, would you consider in a broad constitutional sense that that is ongoing obstruction of justice?

Ms. CORDERO. I'm not willing to say that the Attorney General—I would have to think about that more—that the Attorney General has obstructed justice.

What I will say and what I have said before and I'll say again here is that the Attorney General's letter of March 27th was misleading. The special counsel did not make a finding on obstruction because the special counsel felt constrained by the Department of Justice legal opinion. And, instead, the special counsel laid out a lengthy factual recitation of potentially obstructive acts and, if you read to the very last page of the special counsel's report, specifically says that no man is above the law—no person is above the law.

Ms. JAYAPAL. Thank you. So we are doing a lot of these hearings because we are trying to reeducate the public about what was actually in the report.

As the Mueller report explains, Federal campaign finance laws prohibit foreign nationals from contributing to, donating to, or making expenditures on behalf of U.S. political campaigns. And, likewise, U.S. candidates are prohibited from soliciting, accepting, or receiving a, quote, contribution or donation of money or other thing of value in connection with an election.

Professor Hasen, the answer to this may be obvious, but what are some of the reasons that we have these prohibitions against foreign nationals contributing to U.S. elections?

Mr. HASEN. Well, I could do no better than to quote Justice Stevens, who said that we shouldn't allow people who have, quote, no basic investment in the well-being of the country trying to influence who our leaders are; that either they could be trying to manipulate the outcome of the election or they could be trying to curry favor with whoever is in office.

And if we believe in democratic self-government, then these laws are absolutely necessary.

Ms. JAYAPAL. So, in other words, we could have a President that's not responding to the people of the country but, in fact, to a foreign government. And we could have a President that actually wasn't elected by the people of the country, in terms of where the money for those campaign contributions came.

Thank you, Mr. Chairman. I yield back.

Chairman NADLER. The gentlelady yields back.

The gentlelady from Florida, Mrs. Demings.

Mrs. DEMINGS. Thank you so much, Mr. Chairman.

And thank you to all of our witnesses for joining us today.

You know, I do believe that the United States of America has the most powerful and most capable and most prepared military and that we have the most talented law enforcement and intelligence officials, and I believe that they are prepared to deal with any attack, cyber or otherwise, against our country.

But my biggest fear now, which I did not have prior to 2016, was to think about America being under attack or America being under the threat of attack and the President of the United States does absolutely nothing about it.

Matter of fact—and we all now know that the President said a few days ago, and I quote: If they have information, I think I'd take it.

Dr. Polyakova, you said earlier that Russia's intent is never benign. And I really wish—you've heard a lot of passion and concern today. I wish my Republican colleagues were more concerned, or as concerned, about Russia attacking our democracy as they are about their colleagues on the Democratic side providing the necessary oversight.

But, anyway, you said earlier, Russia's intent is never benign. Could you please, again, elaborate on exactly what you meant by that?

Dr. POLYAKOVA. Absolutely.

Russia sees itself as engaged in, if not a kinetic war, a nonkinetic war with the United States and with the broader West. Russian intentions towards the United States seek to undermine U.S. legitimacy on the global stage, to destabilize our democracy, to sow greater division among our public, and to broadly try to split the alliance system the United States has led and built since the end of the Second World War.

Mrs. DEMINGS. Thank you.

And switching to the GRU intrusions, in addition to hacking into servers associated with the Clinton campaign and other Democratic campaigns, the GRU also targeted individuals and entities involved in the administration of elections.

Alarming, the Mueller report states that victims included U.S. State and local entities—I'm from Florida; how well I know—such as State boards of election, secretaries of State, and county governments, as well as individuals who worked for those entities.

Professor Hasen, even if Russia wasn't able to change the vote tallies, what are the types of damage that could be done if a hostile adversary gains access to systems used by State and local election administrators?

Mr. HASEN. Well, I agree with you to say that there was no evidence of vote totals being manipulated, but there was evidence of intrusions into voter registration databases. And that could cause terrible mischief.

So, for example, you could imagine people going to polling places on election day and going to vote and their names have been removed or their addresses have been changed and they're not allowed to vote. And decisions have to be made in real-time.

There's really a danger when you start messing with—because these are all statewide electronic databases now—you start messing with those databases. We don't have procedures in place as to how to handle that kind of massive problem on election day.

Mrs. DEMINGS. Thank you.

Dr. Polyakova, back to you. Could data like this also potentially be used by the GRU or other Russian actors to aid in their disinformation campaigns—for example, by targeting particular types of voters?

Dr. POLYAKOVA. Potentially, yes.

Mrs. DEMINGS. And is it fair to say that a hostile foreign government, in this case Russia, potentially has access to or can weaponize millions of Americans' personal data?

Dr. POLYAKOVA. I don't know the full scope of the information they have access to. That would be an intelligence question.

However, given what we know from the Mueller report regarding the probes of up to 21 States, I would think that they do have access to that information and that they would be able to, say, micro-target various electorate constituencies in the United States.

I would just make it clear, however, that they don't actually need that, because they have open-source access to micro-targeting data via our social media platforms.

Mrs. DEMINGS. Ms. Cordero, do you believe that Congress has done enough, House and the Senate? I understand that the Grim Reaper is in the Senate. But do you think that we have done enough to secure our elections going into 2020?

Ms. CORDERO. No. I don't think the Congress has passed election security legislation yet.

I laid out in my written statement a variety of steps that I think the Congress could take with respect to election security legislation involving the administration of elections, updating Commission reporting requirements regarding foreign contracts, expanding or more clearly defining the scope of prohibited activity.

I think there are potential requirements that we could put on social media companies for them to have to inform the Intelligence Committees about evidence of disinformation and intelligence activity that they are seeing on their platforms.

I think the intelligence community should have more obligation to inform Congress about evidence of Russian or other country election interference and future disinformation and foreign influence efforts.

So, no, I think there's more, a lot more, that Congress could do.

Mrs. DEMINGS. Thank you all so very much.

Mr. Chairman, I yield back.

Chairman NADLER. The gentlelady yields back.

The gentlelady from Georgia, Ms. McBath, is recognized.

Ms. MCBATH. Thank you, Mr. Chairman.

And thank you, each and every one of you that are here today. Your testimony is extremely important for us getting to the truth, so we really appreciate you being here.

A number of proposed measures have been introduced in the House and Senate that would require political candidates to file reports with the Federal Election Commission if a foreign national tries to offer help to a campaign. Other proposals would prohibit campaigns from sharing certain types of information with foreign nationals. And still others would require transparency in online political ads.

Professor Hasen, can you provide some of your overall impressions about whether a reporting requirement would be helpful and could be appropriately tailored to capture the kind of foreign contacts that pose the greatest concerns and threats?

Mr. HASEN. I do support a duty-to-report law, which would require Presidential campaigns and potentially congressional campaigns to report contacts from—certainly from foreign governments and potentially from foreign nationals. I think that would—if these reports were filed in a timely manner, that would allow people to ask followup questions and figure out what's going on.

I also think we need much greater funding and attention on cybersecurity in the States, because we really need Federal leader-

ship even though these elections are being run at the State level. Especially in counties, we know cybersecurity is a real problem. And so we need that.

And we absolutely need to pass either the Honest Ads Act or something else that would require that the same rules that apply to ads on television and on radio would apply to online ads. It turns out that many of the advertisements that the Russian Government paid for on social media were not covered by current Federal law and were not illegal, and that is a problem. They would've been illegal if they appeared on TV or radio, but they did not in this way.

There's a lot that needs to be done.

Ms. MCBATH. Thank you.

And Let me ask you another followup question. What about requiring transparency in online ads? Is there any reason that you can think of not to do this?

Mr. HASEN. So we have certain transparency rules that apply to some ads that are online and more ads that are on TV and radio. I certainly think that the upside of doing so would allow voters to know who was the ultimate source of a pitch to them to vote in a certain way.

And the social media platforms have shown they can't do it themselves. The kind of disclosure procedures that they've put in place are not letting voters know who's behind the ads. So congressional transparency legislation is very much needed.

Ms. MCBATH. Thank you.

And, Dr. Polyakova, do you think that these types of measures requiring reports of certain foreign contacts, prohibiting sharing information with foreign nationals, and requiring transparency in online ads, would that help prevent Russian influence campaigns going forward?

Dr. POLYAKOVA. It would be an important but not sufficient first step.

Ms. MCBATH. Okay. Thank you.

And I'll ask to Ms. Cordero, if campaigns are required to file a report if they're approached by a foreign national offering to help the campaign, would that be a significantly helpful counterintelligence tool?

Ms. CORDERO. I think all of the reforms that you've described are important, and Congress should be taking these up. I think that they will also have their limits.

So I think there's two parts. Number one, there's more that Congress can do to make clear in the law what is allowed and what is not allowed and what has to be reported.

But there's a second piece, which is that these are—we have to remember these are intelligence operations, and so the intelligence agencies, the foreign intelligence agencies that are engaged in them, they're going to adjust and they're going to try to find ways to get around it.

So I think that these are important reforms and I hope that Congress will pursue them. And then we also need to recognize the limitations of them, which is why it's important that we have candidates that have their eyes open about not receiving and being

willing to receive this type of information because the foreign intelligence agencies will be coming at them.

Ms. MCBATH. Thank you.

And, Dr. Polyakova, you coauthored a report for the Atlantic Council that describes some measures that the European Union has taken to combat disinformation campaigns. But you wrote in a recent op-ed that the United States is lagging behind.

What are some of the key lessons that we can learn from what appears to be working in Europe?

Dr. POLYAKOVA. Thank you.

That is correct, the U.S. is lagging behind in addressing the information manipulation throughout that we see emanating from countries like Russia and other actors.

Some of the key steps that our European colleagues have taken are, one, for example, establish an interagency group that coordinates, that has a mandate to establish policy vis—vis disinformation operations against the homeland.

Currently it is not clear who within the U.S. Government actually owns the information manipulation portfolio. There is no high-level position at an under secretary level or above that has the mandate to carry out any sort of response.

And secondly, most European governments, including the European Commission, have established a rapid response task force within their government to be able to understand when responses to information attacks are necessary, at what level the response should be, and how the United States—and how those countries should continue to build resilience and resistance against such future operations. We have not taken any of those steps so far.

Ms. MCBATH. Thank you.

Chairman NADLER. The time of the gentlelady has expired.

The gentleman from Colorado, Mr. Neguse.

Mr. NEGUSE. Thank you, Mr. Chair.

I know we're nearing the conclusion of this hearing. So I will keep my questions brief.

Professor—is it Professor Prakash? Make sure I pronounce that right.

Mr. PRAKASH. Yes, that is correct.

Mr. NEGUSE. Thank you, sir.

Just a couple of quick yes-or-no questions.

You are a Distinguished Professor of Law, correct?

Mr. PRAKASH. I'll let others decide.

Mr. NEGUSE. Well, I believe in the written testimony you provided you certainly identified yourself that way.

You teach at the University of Virginia?

Mr. PRAKASH. Yes, I do.

Mr. NEGUSE. All right. You are a witness for the minority here, correct?

Mr. PRAKASH. Yes.

Mr. NEGUSE. When I say minority, by that I mean the Republican caucus of the committee has asked you to come testify today, correct?

Mr. PRAKASH. That's right.

Mr. NEGUSE. And you submitted written testimony, correct?

Mr. PRAKASH. That's right.

Mr. NEGUSE. And on page 13 of your written testimony you said—these are your words—quote, “I believe that the President has committed impeachable offenses by acting beyond the Constitution and the statutes of the United States,” correct?

Mr. PRAKASH. Yes, I said that of this President and prior Presidents.

Mr. NEGUSE. And with respect to that sentence, you’re referring to President Trump, correct?

Mr. PRAKASH. In that portion of the testimony that I submitted—

Mr. NEGUSE. It’s a pretty easy yes-or-no question, Professor Prakash.

Mr. PRAKASH. Well, I don’t want—

Mr. NEGUSE. I hear your point regarding the others, but you obviously have written testimony for the record.

Mr. PRAKASH. I wish to make it clear that my comments went to the prior several Presidents and not just this President. And I think if you just read that—

Mr. NEGUSE. Well, I’m going to take back—

Mr. PRAKASH [continuing]. People will get the impression that I’m—

Mr. NEGUSE. I’m going to reclaim my time, sir.

Mr. PRAKASH. I’m sorry.

Mr. NEGUSE. I’m going to reclaim my time.

I was hoping you’d confirm it, nonetheless, it bears repeating, your written testimony that you’ve submitted to the House Judiciary Committee for purposes of this hearing, after being requested to appear here by the minority, in which you say, “I believe that the President”—and you’re referring to President Trump—“has committed impeachable offenses by acting beyond the Constitution and the statutes of the United States.” Those are your words, not mine.

I yield back the balance of my time.

Chairman NADLER. The gentleman yields back.

The gentleman from Arizona, Mr. Stanton.

Mr. STANTON. Thank you very much, Mr. Chairman.

Just a few years ago Russian President Vladimir Putin ordered his government to engage in a systemic and carefully orchestrated cyber attack and disinformation campaign against the United States. Volume I of the special counsel’s report tells us that the Russian attack had the central purpose of undermining our democracy by helping the candidate most favorable to the Kremlin. It worked. Make no mistake, this was the most successful Russian attack against the United States in our history.

With the 2020 Presidential election around the corner, America is still at risk. To this day the current administration has done little to nothing to prevent further attacks, despite everything we know about the attacks that took place.

Rather than demand answers from President Putin, the administration accepts denials. Rather than get behind bills to enhance our security, the administration blocks them. Rather than insulate us from further attacks, the administration invites them.

I was shocked but, frankly, not surprised that in a recent media interview the President said that, quote, “of course,” unquote, he

would accept dirt or negative information about his opponent in the next election, even if that dirt was provided by an adversarial foreign government. He said, quote, “You don’t call the FBI. Give me a break,” unquote.

The American people still have questions. What lessons can we learn from 2016? What are the different ways Russia attacked us? Who knew about this attack as it was happening? How can we stop an attack like this from happening again?

Mr. Chairman, I want to say thank you for bringing up these important issues to the forefront, leading the way to address them in this Congress.

And I want to thank the witnesses for being here today.

For Mr. Hasen, you saw recently that the Chair of the Federal Election Commission, Ms. Weintraub, made some specific comments after the President gave that interview to Mr. Stephanopoulos. In your opinion, how unusual was it for the Chair of the FEC to release such a statement?

Mr. HASEN. I can’t think of another instance in which the Chair of the Federal Election Commission has issued a statement like this. So it seems, as far as I know, it’s unprecedented.

Mr. STANTON. All right. And then, Mr. Hasen also, what more do you think needs to be done to make it absolutely crystal clear that anyone running for public office should under no circumstances receive anything of value from a foreign adversary?

Mr. HASEN. Well, at this point I think further congressional legislation would be in order to further define terms that there could be no ambiguity about what’s illegal and to provide transparency so that we would know when there might be potential contacts between American campaigns and agents of foreign governments.

Mr. STANTON. All right. Ms. Cordero, several investigations into the 2016 Presidential election have been conducted. In your expert opinion, what should the Department of Justice be doing right now to prevent interference in the 2020 election?

Ms. CORDERO. I would imagine that the—and I don’t have any information—but I would imagine that the Justice Department is continuing—the FBI, which has domestic counterintelligence responsibilities, and that the intelligence community, which has foreign intelligence collection responsibilities, are all working collaboratively to uncover ongoing and persistent efforts by Russian intelligence or any other hostile foreign government that is attempting to interfere with our upcoming campaign season and election. And I think that’s consistent with what current intelligence officials have said.

As I mentioned earlier with respect to the Attorney General’s review of prior investigations, I hope that part of that review includes clarity so that counterintelligence investigators here, if they do come upon information suggesting that there is a threat to—a national security or counterintelligence threat to a current campaign or a near-to-come campaign between now and 2020, that they have clear rules of the road so that they feel empowered to be able to fulfill their responsibilities to protect the country.

Mr. STANTON. And then one final question, Ms. Cordero.

The executive branch has repeatedly denied that Russia was responsible for trying to interfere in the 2016 election. The President

said that he credits Vladimir Putin's denial of Russia's interference, despite being told the opposite by his own intelligence agency.

To you, is this troubling? If so why?

Ms. CORDERO. It is the definitive assessment of the U.S. intelligence community, as well as well documented in the Mueller report, that there was a Russian Government-sponsored intelligence operation directed at the 2016 campaign.

That is from an intelligence perspective indisputable. And as the Commander in Chief and the individual who has executive privilege responsibility to protect the country, it is deeply concerning if the President legitimately does not believe that assessment.

Mr. STANTON. Thank you.

Chairman NADLER. The gentleman yield back.

The gentlelady from Arizona, Mrs. Lesko, is recognized.

Mrs. LESKO. Thank you, Mr. Chairman.

And I'd like to yield—what?—how much time would you like, Mr. Collins?

Mr. COLLINS. A few minutes.

Mrs. LESKO. A few minutes to my colleague and ranking member, Mr. Collins.

Mr. COLLINS. Thank you. I won't take that long.

Again, I think it is interesting. I do appreciate Ms. Cordero actually admitting you didn't know what was going on right now. But hopeful, and I'm of the same way and I have no indications there's not anything going on between our intelligence agency and FBI at this point. And I appreciate you saying that.

Mr. Prakash, you were given the victim in some ways of having to go through the 5-minute rounds just like we all are up here; but I want to give you a moment of explaining further your statement, I believe, in your exchange just a moment ago with the gentleman from Colorado.

Mr. PRAKASH. Yes. The gentleman, I think, took out of context my statement. My statement is that Presidents have exceeded their constitutional powers, and that's true for the past several Presidents.

If you believe that starting a war in Libya was unconstitutional, that's an impeachable offense. If you think that, you know, violating—if you think the President violated the Emoluments Clause, this President, that's an impeachable offense.

My statement applied to all the past several Presidents and not just this one. It's true that particular sentence only referred to this one, but I think it's a mistake to think that I was only talking about this one.

My point is that Congress needs to move beyond partisanship and Members of Congress ought to take consistent positions on the scope of the war power, on the scope of the Emoluments Clause, on the scope of executive privilege. And singling out one statement and using it against one President was not the point of my testimony, with all due respect to the Member from Colorado.

Mr. COLLINS. Thank you, Mr. Prakash.

I think it's interesting, too, because actually you and I probably have a difference of opinion on even the War Powers Act itself being constitutional, and that's another topic for another day.

I think as we look at this as we go forward, again, it's just an interesting time that we, again, have folks telling us what we should be doing when there are bills in the hopper right now that we could actually be marking up. Instead we're hearing that we should be marking up bills, but we're not doing that, and that goes back to the chairman and the majority who control this time.

With that, I yield back to the gentlelady from Arizona.

Mrs. LESKO. Thank you, Mr. Collins.

As I've said before, this is very frustrating to me because my constituents want me to work on real issues and not do something that the special counsel has investigated for 2 years, 2,800 subpoenas, 500 bench warrants. I don't really understand what my Democrat colleagues think they're going to get further out of this except maybe PR against the President of the United States. That's all I can imagine.

But originally we were supposed to be here talking about obstruction of justice, is my understanding, but now it's moved, the Democrats have moved it to Russia. So I really don't understand this what I believe is obsession over the subject, because right here in the Mueller report, page 173, is one place where it says it. It says, "The investigation did not establish that the campaign coordinated or conspired with the Russian Government in its election-interference activities."

This is after 2 years, 2,800 subpoenas, 500 bench warrants, 40 FBI agents, 19 attorneys, and they have not found this, but yet somehow here we're going to rehash all this because we want to—some people, I think, want to influence the 2020 election.

My question then, since we're now talking, I'd like to talk about the obstruction of justice part, and my question is with Mr. Prakash.

In your view, Professor, what's your view of the special counsel's decision not to make any determination one way or the other on obstruction of justice? It seems odd to me that a prosecutor who's supposed to either charge somebody or indict somebody does it or they don't. Do you think it's odd as well?

Mr. PRAKASH. I do. I think there's no OLC or DOJ opinion preventing Special Counsel Mueller from deciding whether the President committed obstruction. There wasn't one when he wrote the report, and there isn't one now. He's fully capable of making that determination. He's fully capable of saying: I think there's enough evidence to suggest a prosecution or suggest that there's a guilty conviction. Or he's able to say: There's some evidence but not enough to go forward with a prosecution. There's nothing in OLC or DOJ opinions that prevent that. I think he was told this and he nonetheless decided to keep the report as is.

Mrs. LESKO. And thank you, Professor.

And I also want to remind everyone that's watching that there was a joint letter by the joint special counsel and DOJ's statement on the role of the OLC opinion saying—I'm going to read it so I don't get it wrong.

"The Attorney General has previously stated that the special counsel repeatedly affirmed that he was not saying that for the OLC opinion he would have found the President obstructed justice."

If that's the answer that my Democratic colleagues give for why he didn't prosecute, there was a joint statement made by both of them saying that was not the reason.

And so, again, I'm very short on time, but one of the other questions, do you think, Professor Prakash, that there needs to be an underlying crime in order to prove that there's corrupt intent for obstruction of justice?

Mr. PRAKASH. I'm not an obstruction of justice scholar. I don't think there needs to be an underlying crime. But, of course, if there is no underlying crime, it becomes less likely than the person who allegedly influenced or obstructed an investigation did so with a corrupt intent.

Chairman NADLER. The time of the gentlelady has expired.

Mrs. LESKO. Thank you.

Chairman NADLER. One of our witnesses, Dr. Polyakova, has to catch a plane.

So with the thanks of the committee, you are excused.

The committee will take a 5-minute break at this point. We will recess for 5 minutes; and I mean 5 minutes, not 6. The committee is in recess.

[Recess.]

Chairman NADLER. The committee will resume.

The gentlelady from Florida, Ms. Mucarsel-Powell, is recognized.

Ms. MUCARSEL-POWELL. Thank you, Mr. Chairman.

Thank to you the witnesses for being here today.

I want to bring up a little bit and read from the Mueller report how the Russians used misinformation to penetrate our political system and also sow discord here in the United States in the 2016 campaign.

So in page 33 of the Mueller report it states that, "Among the U.S. 'leaders of public opinion' targeted by the IRA," which is the Internet Research Agency, an arm of the Russian intelligence, there "were various members and surrogates of the Trump Campaign. In total, Trump Campaign affiliates promoted dozens of tweets, posts, and other political content created by the IRA.

"Posts from the IRA-controlled Twitter account @TEN—GOP were cited or retweeted by multiple Trump Campaign officials and surrogates, including Donald J. Trump, Jr., Eric Trump, Kellyanne Conway, Brad Parscale, and Michael Flynn. These posts included allegations of voter fraud, as well as allegations that Secretary Clinton had mishandled classified information.

"A November 7, 2016, posts from the IRA-controlled Twitter account @Pamela—Moore13 was retweeted by Donald Trump, Jr.

"On September 19, 2017, President Trump's personal account @realDonaldTrump responded to a tweet from the IRA-controlled account @10—gop (the backup account of @TEN—GOP which had already been deactivated by Twitter). The tweet read: 'We love you, Mr. President!'"

And the Mueller team actually shows us a picture of some of these posts.

I'm extremely concerned that this continues to happen. We are living on a daily basis, 8, 10 hours a day, looking at our phones. I am a mom of teenagers who are looking at misinformation all the time.

I actually had a personal experience where my son brought to my attention the video that we all saw, the Nancy Pelosi video, that was a false video. So imagine, if my son was confused with this video, what we're still seeing right now in our social media accounts.

So my question is first for Mr. Hasen.

You explained that it is illegal for a foreign government to give money or anything of value to a U.S. Presidential campaign. Could running a social media influence operation be considered a thing of value?

Mr. HASEN. Well, so those were not being given to the campaign and they were not being done in coordination with the campaign. But there's a separate part of the same law that prevents foreign governments and other foreign individuals from expenditures, from spending money, even independently, to try to influence the outcome of an American election.

Unfortunately, the way the current statutes are written, very little of the kind of social media activity that's described in the Mueller report and that were described in reports given to the Senate Intelligence Committee are illegal under current law, and they don't even require disclosure of the source. That's why it's essential that we pass legislation that would require people to—so we could at least know who's behind these things.

And I expect we're going to see a lot of this activity coming not from foreign sources, but from domestic sources, and even there it would be valuable to know who is behind this kind of advertising.

Ms. MUCARSEL-POWELL. Thank you.

And I know that the Mueller report confirms that actually these accounts were able to reach somewhere between 29 and 126 million Americans, spreading misinformation on Facebook, Twitter, YouTube. So I just want to reiterate that for everyone who is watching or that is paying attention, that what we're seeing today is the continuation of the spread of misinformation in social media.

So one follow-up question, Mr. Hasen. Is it illegal for a foreign entity to buy political ads aimed at U.S. audiences?

Mr. HASEN. So that depends on what you mean by a political ad. It's illegal to buy an ad that says—for example, we saw an ad that said vote for Jill Stein, who was a third party candidate. But paying to run something that said Hillary Clinton is a Satan, which is something we also saw, if that's on social media and not on radio or TV in the period before the election, not illegal right now.

Ms. MUCARSEL-POWELL. And why is the first ad illegal? Can you explain that, please?

Mr. HASEN. Because it contains express advocacy. That is, it says that you should vote or against a particular candidate. For First Amendment reasons and other reasons, the laws have been constructed to differentiate between ads that are about candidates and ads that are about issues. We have a slightly broader definition that applies to TV and radio. There's been a proposal to extend that online. It's in the Honest Ads Act, and I would support that extension.

Ms. MUCARSEL-POWELL. Okay. And just one final question for—

Mr. COLLINS. Regular order.

Ms. MUCARSEL-POWELL [continuing]. Ms. Cordero.

Chairman NADLER. Regular order. Regular order.

Ms. MUCARSEL-POWELL. Why do you think it's so important to have this hearing, since we keep—

Mr. COLLINS. Mr. Chairman—

Ms. MUCARSEL-POWELL [continuing]. Hearing from our colleagues across the aisle that this is not important, that we're wasting our time?

Chairman NADLER. The gentelady's time has expired.

The witness may answer the question.

Mr. COLLINS. Mr. Chairman.

Chairman NADLER. The witness may answer the question.

Ms. CORDERO. Thank you.

I believe these hearings are important because the special counsel's report, number one, in Volume I, explains what the Russian influence effort was. It explain contacts between the Trump campaign and Russian surrogates. It shows its willingness to receive information.

And Volume II of the report articulates anywhere from 4 to 6 and up to 10 potentially obstructive acts that are acts that this Congress has a duty to look into further.

Chairman NADLER. The time of the gentelady has expired.

The gentelady from Pennsylvania, Ms. Dean.

Ms. DEAN. Thank you, Mr. Chairman.

Ms. Cordero, in my limited time I wanted to take a look at the notion of disinformation, disinformation from a foreign foe but also disinformation from within the country. And the general definition that I'm using of disinformation is false information that is intended to mislead; false information intended to mislead.

I was really struck by the clarity with which you began your written testimony, that you talked about your focus on the significance in our national security and our democratic institutions. And one of your bullet points regarding Volume I was lessons we can draw from the report to ensure that foreign interference in our democratic institutions can be looked at as an aberration and not an accepted part of American elections and public discourse.

That's my ambition, too. I thank you for so clearly stating that.

But I want to take a look at the disinformation that I saw coming from the Attorney General on behalf of this administration. You commented on this skewed perception of the findings of the special counsel due to the actions of Mr. Barr. I'm going to try to do this timeline real fast.

On March 22, special counsel submitted his report. On March 24, the Attorney General put out a four-page summary that was misinformation about that 448-page report. On March 25, the special counsel wrote a letter to the Attorney General including executive summaries that he hoped would be released. March 27, special counsel again wrote to the Attorney General that the summary he released did not fully capture the nature and substance of his work or conclusions and worried about public confusion.

Finally, after almost 4 weeks—and we lived it right here—on April 18, the Attorney General first held a press conference where he said over and over again no collusion, no collusion, no collusion, no obstruction, and then released the report. And as we know from

page 2 of the Attorney General's report, he was never looking for collusion because it's not a legally chargeable thing.

So the President and the Attorney General have gone around saying no collusion, I would argue, probably hundreds of times. In fact, in that press conference: No evidence of Trump collusion. This is by Attorney General Barr.

Can you talk to me about the problem of public confusion, of disinformation coming from within a governmental institution, and what is at risk when that happens?

Ms. CORDERO. So I want to be careful not to confuse what the Russian interference effort was as a hostile intelligence operation with what I described in my statement as the misleading letter of March 24 from the Attorney General.

I do believe, as I wrote in my statement, that his letter was misleading, and it created, as the special counsel later wrote in his letter that was not released for several weeks, the special counsel acknowledged that the Attorney General's public statements had created a misimpression in the public.

In my view, the Attorney General had a responsibility not to create that confusion. And because he is the Attorney General, because we hold the Attorney General up in an elevated position as the chief law enforcement officer of the country, we expect that the Attorney General will accurately, and I expected that the Attorney General would have accurately represented what was in the report.

The special counsel's office was clear that the reason they did not make a finding on obstruction was because they felt constrained by existing Justice Department legal opinion that a President could not be indicted. Therefore, they didn't think they could make the recommendation. And they applied a doctrine of fairness which said that you can't accuse somebody of a crime if they're not going to be able to stand trial, which a President would not.

But I would note that in the very last two pages, if you read all the way to the end of the special counsel's report, at the end of Volume II, the special counsel says that we had a valid basis for investigating the conduct at issue in this report and the application of the obstruction statutes would not impermissibly burden the President's performance of his Article II functions and that this protection of the justice system accords with the fundamental principle of our government that no person in this country is so high that he is above the law, quoting a case from the 19th century.

So I believe that the special counsel laid out their investigation so that this body would wrestle with the facts that are in that report.

Ms. DEAN. I thank you for that, and I thank you for your opening clarification. It is I who is saying that absolutely I agree with you the Russian interference, the Russian disinformation is extraordinarily grave, and of course members of this committee are concerned that it is the continuing and will continue in 2020.

But I do think that it's very critical that we examine what happens within our institutions and what information is put out. It is very dangerous for, as Mr. Mueller himself told Mr. Barr, to risk public confusion, and that's exactly what he did and continues to do as far as I'm concerned.

So thank you for your expertise.

Thank all of you.

Thank you. I yield back.

Chairman NADLER. The gentlelady yields back.

The gentlelady from Texas, Ms. Escobar, is recognized.

Ms. ESCOBAR. Thank you, Mr. Chairman.

And many thanks to our panel today.

I just want to say for the record how deeply concerned I continue to be when I hear efforts to distract and distort the truth when what is at stake is our very American democracy.

Ms. Cordero, I'm going to be asking you a couple of questions. I'd like to get through as many of them as possible, so if it's possible, if you could be as succinct in your responses.

I want to focus a little bit on Russia's hacking and dumping operations. The Mueller report states that in April, 2016, the GRU, quote, "hacked into the computer networks of the Democratic Congressional Campaign Committee and the Democratic National Committee, targeting hundreds of email accounts used by Clinton campaign employees, advisers, and volunteers. In total, the GRU stole hundreds of thousands of documents from the compromised email accounts and networks," end quote. Then the GRU released stolen documents using fake online personas and later released them through WikiLeaks.

The Mueller report states that, quote, "The release of the documents was designed and timed to interfere with the 2016 U.S. Presidential election in order to undermine the Clinton campaign," end quote.

We then heard from Jared Kushner, the President's son-in-law, long after the report was released, that all it was was a few Facebook ads.

And so my question for you, Ms. Cordero, in your view, how sophisticated was this operation?

Ms. CORDERO. The social media operation—well, there were two parts of it, the social media operation and the hacking operation. Both were—they were government-sponsored events. They were activities. They were the activities of a hostile intelligence service. So this is part of the Russian intelligence, part of their military operation.

The online effort was they had an organization called the Internet Research Agency which had employees, people who this was their actual job to do, actually doing the activity of putting out posts. I don't know how particularly sophisticated that is. I think on the sophistication, technical sophistication, we see the hacking activity, which was pervasive and consistent and deliberately timed in terms of the releases.

Ms. ESCOBAR. And so you mentioned the military operation component of this. So literally people would get up and go to work every day in order to do this?

Ms. CORDERO. Well, and that's consistent—yes, and that's consistent with what we see from other countries, as well. Some of the Chinese indictments have described with respect to Justice Department prosecutions against Chinese intelligence activities where this is—their job. This is a foreign intelligence activity directed at our country. That's what the Russians were doing. This was an organized government intelligence operation targeting us.

Ms. ESCOBAR. And why should ordinary Americans care? And I have found myself having to explain this to folks. Why should they care about the fact that Russia was trying to manipulate us?

Ms. CORDERO. They should care because Russian interests are not American interests. So this gets to—this is why this is a bigger part of our foreign policy conversation, our domestic conversation, in terms of when a foreign country is taking intelligence activities against another country, they're doing it for their own interests, their own geopolitical interests, their economic interests, their military interests.

And so they determined that this information operation was in their interests. That is not the same as American interests. Maybe there's things that we can cooperate on with countries that have different interests than ours, but we need to pay attention and it's the responsibility of American leaders in government to protect what is in American interests. And when we are the recipients of a foreign influence operation and we don't understand that, we don't understand how we're being manipulated.

Ms. ESCOBAR. And why on Earth would any American want to prevent an investigation into that kind of manipulation?

Ms. CORDERO. I don't know why any American would want to prevent that investigation and I certainly don't know why anyone who is ostensibly the head of the executive branch would want to interfere in that investigation.

Ms. ESCOBAR. Thank you so much.

I yield back my time.

Chairman NADLER. The gentlelady has yielded back.

The gentlelady from Texas, Ms. Garcia.

Ms. GARCIA. Thank you, Mr. Chairman.

And thank you for all the witnesses. I know it's been a long hearing. And, first off, I want to apologize that I was not here for your opening statements. Regretfully, I was at another committee hearing. But like people coming to Texas, they get there as quickly as they can.

But I wanted to start with you, Ms. Cordero. During last Monday's hearings our witnesses focused on discussing all of the evidence regarding obstruction of justice as described in Volume II. However, I think that there are some things in Volume I that kind of shed light on the allegations of obstruction.

So, broadly speaking, when the Mueller report describes efforts to undermine the special counsel's investigation, what exactly was the investigation that the administration officials or the President was attempting to restrict or end prematurely? In other words, if Special Counsel Mueller's investigation had never happened, what are some of the things we wouldn't have learned?

Ms. CORDERO. The special counsel's investigation has been able to lay out in a way that we can see for the most part—and there still are some significant parts redacted that I hope the committee will be able to obtain.

Ms. GARCIA. Many of us agree with you.

Ms. CORDERO. But to lay out what the activities were of the Russian intelligence activities.

In terms of the obstruction, Volume II lays out a variety of steps the President took in terms of starting with the firing of the FBI

Director, then trying to encourage his staff to potentially relieve the special counsel of his duties, encouraging his staff to then try to cover up the fact that he had directed, in particular his White House counsel, to direct the Deputy Attorney General to fire the special counsel.

So I think that the President perhaps thought—and I'll make that speculation—that firing these different individuals or changing the leadership of the investigation would end the investigation. I think the agencies work in a way that was able to continue it. But had the special counsel's investigation actually been curtailed, it could be that we wouldn't know all of the facts that we do know already.

And just as an example, so I'll show you, there's a section of Volume I that says "Trump campaign and the dissemination of hacked materials." And this is my marked-up copy of the report. You can see that the "Trump campaign and dissemination of hacked materials" is mostly redacted in the public report, but this is obviously information that the special counsel was able to uncover regarding what the campaign was trying to receive in terms of information that was hacked by the Russian intelligence agents.

Ms. GARCIA. Right, which is a perfect example of the reasons we're trying to get a copy of the entire unredacted report and all the underlying evidence.

And on page 90 and 91 of Volume II of the report, it describes how the President tried to enlist his former campaign manager, who was not a White House employee at the time, had no real role in the White House, Corey Lewandowski, to deliver a message to then Attorney General Jeff Sessions.

He told Lewandowski to write it down and then dictated a speech that he wanted to order Sessions to give about the special counsel's investigation, notwithstanding Sessions' prior recusal from the case. He wanted Sessions to deny that he had done anything wrong as a candidate during the campaign.

And then he wanted Sessions to say, quote: Now a group of people want to subvert the Constitution of the United States. I am going to meet with the prosecutor to explain this, it's very unfair, and let the Special Prosecutor move forward with investigating election meddling for future elections so that nothing could happen in the future.

He was trying to limit it, right?

So Lewandowski wrote all this down. He gave the notes to the special counsel's office.

My question, Ms. Cordero, is, would it even have been possible to limit an investigation like this to, quote, election meddling for future elections? Why or why not?

Ms. CORDERO. If the special counsel would have been fired, or if the individual overseeing the special counsel's investigation—so the reason he wanted Attorney General Sessions to unrecuse was because, I think, he thought that Attorney General Sessions, if he was in charge of the investigation, might limit the scope of it.

So perhaps he was hoping that he could put in place an Attorney General who would not allow the investigation to go into areas about what the campaign did or what happened in the White House or the obstructive acts that are detailed in Volume II. That's

what I think the goal of trying to change the leadership of the investigation was.

And that's why the—and so that—it is possible that, had the special counsel been fired and a different Attorney General overseeing the investigation would have cabined the investigation, then it is possible that we would not have the information that is in Volume II especially, which is the outlying of the potentially obstructive conduct.

Ms. GARCIA. Thank you.

Thank you, Mr. Chairman. I yield back.

Chairman NADLER. The gentlelady yields back.

This concludes today's hearing. We thank the witnesses for attending and for their testimony.

Without objection, all members will have 5 legislative days to submit additional written questions for the witnesses or additional materials for the record.

Without objection, the hearing is adjourned.

[Whereupon, at 1:52 p.m. the committee was adjourned.]

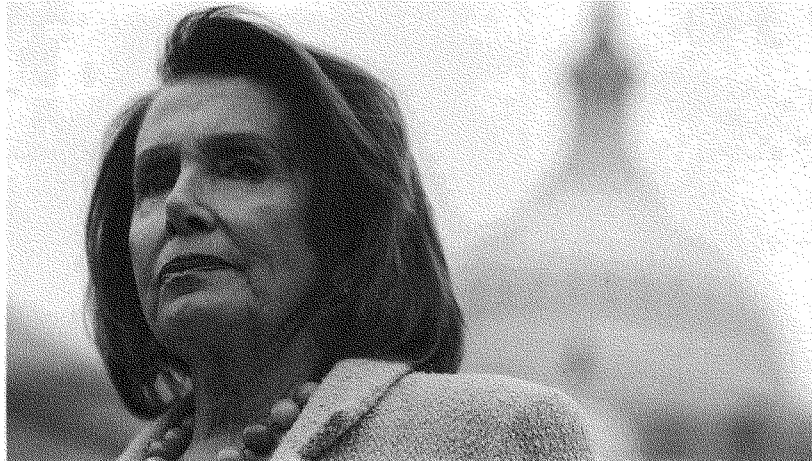
APPENDIX

No Outrage Over Democrat Ties to Foreign Election Interference

amgreatness.com/2019/06/14/no-outrage-over-democrat-ties-to-foreign-election-interference/

Julie Kelly

June 15,
2019



In the latest media-manufactured crisis *du jour*, the president now stands falsely accused of inviting foreign interference into our elections.

During an Oval Office interview with ABC News' George Stephanopoulos on Thursday, President Trump said there "isn't anything wrong" with listening to information offered up by a foreigner about a candidate's political opponent.

"It's not an interference, they have information. I think I'd take it," he told Stephanapolous when asked whether it's appropriate to accept opposition research from someone in another country. "If I thought there was something wrong, maybe I'd take it to the FBI, if I thought there was something wrong."

The rather innocuous comments unleashed the predictable and tiresome widespread outrage. House Speaker Nancy Pelosi (D-Calif.) scolded the president for "not knowing between right and wrong" and demanded that "everyone in the country should be appalled."

Trump's remarks provided the newest grist for impeachment threats. Perpetual bore Senator Mitt Romney (R-Utah) apparently misunderstood Trump's response, but nonetheless seized the opportunity again to boast of his moral superiority. "I ran for president twice. I ran for governor once. I ran for Senate twice," Romney told CNN, once again reminding Americans that he has been in politics for way too long. "I've never had any attempt made by a foreign government. Had that occurred, I would've contacted the FBI immediately."

Even Ellen Weintraub, the chairwoman of the Federal Election Commission, weighed in from her long-expired perch (her term officially ended in 2007) at that agency:

I would not have thought that I needed to say this. pic.twitter.com/T743CsXq79

— Ellen L. Weintraub (@EllenLWeintraub) June 13, 2019

While Weintraub's lecture earnedatta boys from the usual suspects, it again brought attention to the legitimate scandal that the media, Democrats, and NeverTrump Republicans continue to ignore and excuse: The use of foreign sources to fabricate and promote the Russian collusion fable during the 2016 presidential campaign.

Further, Weintraub's agency refuses to act on a complaint filed in October 2017 confirming not only that both Hillary Clinton's presidential campaign and the Democratic National Committee paid for that foreign-sourced dirt but also that they attempted to conceal their efforts from federal authorities in violation of campaign disclosure law.

In 2016, the Clinton campaign and DNC used Perkins Coie, a politically connected and influential law firm, as a pass-through to pay Fusion GPS for opposition research related to Donald Trump. Fusion GPS co-founder Glenn Simpson in turn hired Christopher Steele, a British operative who once worked for the U.K.'s version of the CIA. Steele is a British citizen, also known as a "foreigner."

At the same time, Steele was working as an FBI informant for the Obama Justice Department *and* representing Oleg Deripaska, a Russian oligarch close to Russian President Vladimir Putin, in legal matters before the U.S. government.

The former British spy allegedly leveraged his Russian contacts to help compile a series of opposition research memos, commonly known as the "dossier," for Fusion. Steele anonymously referred to several Kremlin-linked individuals in the dossier; notes recently disclosed from an Obama State Department official revealed that Steele claimed two of his sources were a former Russian intelligence chief and a Putin aide.

That material was then passed to Perkins Coie, the law firm representing both Hillary Clinton's political action committee and the DNC, which in turn briefed the Clinton campaign. "I'm proud that we were able to assemble some of the research that has brought

[Russian collusion] to light,” Clinton campaign manager Robby Mook told CNN’s Anderson Cooper in November 2017 after news reports confirmed the provenance of the dossier. “I’m glad that there was research there...I’m glad we’re paying attention to this now.” Mook bragged about how he first brought attention to attempted Russian meddling in July 2016 (coincidentally, the same month that Jim Comey’s FBI opened up a counterintelligence probe into the Trump campaign for suspected collusion) and later leveraged that propaganda to launch the special counsel investigation.

So Mook, the head of the Clinton campaign, boasted about accepting dirt on Donald Trump furnished by a paid foreigner operative (Steele) and possibly sourced by Kremlin-linked associates—and no one cared. News outlets also did not care; both Yahoo News and Mother Jones published stories based on the dossier before the presidential election. Reporters Michael Isikoff and David Corn personally met with both Simpson and Steele, a foreigner, to learn more about his Russian-based research. Neither contacted the FBI with the alarming news that a British national was peddling Russian-sourced allegations in an effort to plant negative stories about the Donald Trump before Election Day.

Steele also reportedly met with reporters and editors at the *Washington Post*, *New York Times*, *The New Yorker*, and CNN to discuss the dossier, according to Simpson’s Senate testimony. No one notified the FBI.

Another person who seems unconcerned about known foreign interference in an American election is . . . Ellen Weintraub. A Democrat appointed by President George W. Bush in 2002, Weintraub was elected FEC chairwoman the following year. Despite her many public rebukes of President Trump and Republicans—and her deep concern about how Russian Facebook memes could brainwash American voters—Weintraub hasn’t expressed any alarm over the evidence that the Clinton campaign and DNC paid for foreign-sourced information on Trump.

Weintraub’s agency continues to sit on a complaint filed 20 months ago by the D.C.-based Campaign Legal Center detailing how both committees failed to report payments to Fusion GPS, only disclosing nearly \$13 million in payments to Perkins Coie during the 2016 election cycle. The funds were vaguely described as “legal services” on reporting documents.

According to the complainant, however, “there is reason to believe that Hillary for America and the DNC filed false reports by (a) failing to accurately report the ‘purpose’ of disbursements, describing disbursements for ‘legal services’ or ‘legal and compliance consulting’ when the actual purpose was research, and (b) inaccurately reporting payments to Perkins Coie that were, in reality, earmarked for Fusion GPS, in violation of FECA’s reporting requirements.”

In his House Intelligence Committee testimony, Simpson said that Perkins Coie paid Fusion \$50,000 per month plus expenses beginning in April 2016. Steele, in turn, was paid about \$180,000 for his foreign-sourced opposition research. (The only difference between what the Democrats actually did in 2016 and what Trump suggested this week is that the Democrats paid big bucks for their international meddling efforts.)

But the FEC still hasn't taken action on the complaint—and there might be a reason why. Before joining the FEC, Weintraub herself was an attorney at Perkins Coie, serving as “Of Counsel to the Political Law Group” according to her FEC bio. A spokesman confirmed to me in an email that “nothing yet” has happened with the complaint and he could not say whether Weintraub has recused herself from investigating the claims against Clinton campaign and the DNC.

So, contrary to Weintraub's threat that “anyone who solicits or accepts foreign assistance risks being on the wrong side of a federal investigation,” her agency has not taken any steps either to punish the known foreign assistance Democrats accepted in the 2016 election to damage Trump's candidacy, or to impose sanctions on the violations that kept all of that foreign activity hidden from the American public.

The only consolation in this latest fracas is that when the investigation into the corrupt origins of the FBI's probe into the Trump campaign exposes the many foreign actors involved in the Democratic-choreographed Russian collusion hoax, we should see who is truly concerned with foreign interference in our elections and who again is only joining the latest outrage machine because, Trump.

Content created by the Center for American Greatness, Inc. is available without charge to any eligible news publisher that can provide a significant audience. For licensing opportunities for our original content, please contact .

Photo Credit: Alex Wong/Getty Images

SHEILA JACKSON LEE
18TH DISTRICT, TEXAS

WASHINGTON OFFICE:
2435 Rayburn House Office Building
Washington, DC 20515
(202) 225-3816

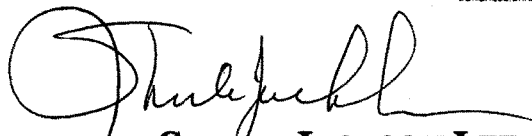
DISTRICT OFFICE:
1919 Smith Street, Suite 1180
The George "Rockey" Leland Federal Building
Houston, TX 77002
(713) 665-0050

ACROSS HOME OFFICE:
6719 West Montgomery, Suite 204
Houston, TX 77019
(713) 661-4882

HEIGHTS OFFICE:
430 West 18th Street
Houston, TX 77008
(713) 661-4070

Congress of the United States
House of Representatives
Washington, DC 20515

COMMITTEES:
JUDICIARY
SUBCOMMITTEES:
CRIME, TERRORISM, AND HOMELAND SECURITY
Immigration, Border Security, and Claims
HOMELAND SECURITY
SUBCOMMITTEES:
INTELLIGENCE, INFORMATION SHARING, AND
TERRORISM RISK ASSESSMENT
ECONOMIC SECURITY, INFRASTRUCTURE PROTECTION,
AND CYBERSECURITY
MANAGEMENT, INTERGRATION, AND OVERSIGHT
SCIENCE
SUBCOMMITTEES:
ENERGY
SPACE AND AERONAUTICS
MARINE
DEMOCRATIC CAUCUS POLICY AND
STEERING COMMITTEE
Co-Chair
CONGRESSIONAL CHILDREN'S CAUCUS



CONGRESSWOMAN SHEILA JACKSON LEE OF TEXAS
HOUSE COMMITTEE ON THE JUDICIARY
LESSONS FROM THE MUELLER REPORT, PART II:
BIPARTISAN PERSPECTIVES
JUNE 20, 2019 – 10:00 AM
2141 RAYBURN HOUSE OFFICE BUILDING

- I thank the Chairman for yielding.
- I would like to thank the Committee's witnesses for their service to our country and for their voluntary appearance today:
 - **Carrie Cordero**, Robert M. Gates Senior Fellow and General Counsel, Center for a New American Security
 - **Richard Hasen**, Chancellor's Professor of Law and Political Science, The University of California, Irvine School of Law
 - **Alina Polyakova**, Director, Project on Global Democracy and Emerging Technology and Fellow - Foreign Policy, Center on the United States and Europe, Brookings Institution
 - **Saikrishna Prakash**, James Monroe Distinguished Professor of Law and Paul G. Mahoney Research Professor of Law, University of Virginia School of Law

- I would ask unanimous consent to revise and extend my full remarks and include additional materials in the record.
- This is yet another hearing in the search for the truth and the quest, on behalf of the American people, to bring to light the contents of the Mueller Report.
- Consistent with our oath of office and constitutional responsibilities, House Democrats have been conducting vigorous oversight of this president.
- The response of the White House has been to stonewall.
- The request for former White House Counsel and key witness Don McGahn II to appear before the Judiciary Committee was met with a specious claim of executive privilege.
- The current Attorney General, William P. Barr, refused to appear before the House Judiciary Committee because he was afraid of being questioned by the Committee's lawyers.
- Yesterday, we met with former White House Communications Director Hope Hicks, and her level of obstruction was astounding.
- Armed with lawyers from the Justice Department and the White House Counsel's Office, Ms. Hicks refused to answer any questions about her time in the White House.
- While this alone is incredulous, it was minor compared to the completely outrageous, unfounded and untenable claim by the White House that an absolute privilege protects Ms. Hicks from answering questions about her time in the White House.
- This is absurd for the obvious reason that granting absolute privilege to any executive branch employee for interactions between the President and said employee incentivizes both the President and that employee to conspire to commit crimes.

- Indeed, the Watergate scandal may have turned out very differently had John W. Dean—who was before our committee earlier this month drawing many parallels between this president and the criminal administration of President Richard Nixon—been able to maintain plausibly that he had an absolutely privilege against testifying before a Congressional Committee.
- The New York Times reported that Ms. Hicks was aboard Air Force One when it broke the shocking news of infamous June 2016 Trump Tower meeting where the Russians offered dirt on Secretary Hillary Clinton, and Donald Trump Jr. replied “if it’s what you say it is, I love it.”
- The news broke while the President and his inner circle were aboard Air Force One, on his way back from a summit where he held another secret meeting with his friend and supervisor Vladimir Putin, and his team felt compelled to put out a statement regarding the meeting.
- In response to concerns that lying about the meeting would eventually be revealed because emails existed, Ms. Hicks allegedly told staff, in the presence of the President of the United States, that concerns about emails were not to be taken seriously because those emails “would not see the light of day.”
- At least one member of the President’s staff, Mark Corralo, reportedly resigned as a result of the President decision to disseminate this knowingly false statement.
- While members on this side of the dais are rightly outraged by the systematic stonewalling from the president, this type of obfuscation and undermining of Article I prerogatives should concern us all—Republicans and Democrats alike.
- Hope Hicks’s defiance before our Committee should surprise us, but it does not because this is the tact the Administration has taken with respect to the availability of all witnesses.

- And, it was the favored tactic of this President towards the Special Counsel's investigation, as the Special Counsel told us:

"Our investigation found multiple acts by the President that were capable of exerting undue influence over law enforcement investigations, including the Russian-interference and obstruction investigations. The incidents were often carried out through one-on-one meetings in which the President sought to use his official power outside of usual channels. These actions ranged from efforts to remove the Special Counsel and to reverse the effect of the Attorney General's recusal; to the attempted use of official power to limit the scope of the investigation; to direct and indirect contacts with witnesses with the potential to influence their testimony."

- Which led the Special Counsel to make this observation:

"[I]f we had confidence after a thorough investigation of the facts that the President clearly did not commit obstruction of justice, we would so state. Based on the facts and the applicable legal standards, we are unable to reach that judgment."

- The Special Counsel outlined at least ten instances of possibly obstructive conduct by the President but did not make a prosecutorial judgment on the issue because he was precluded from doing so by the Department of Justice OLC opinion against indicting a president.
- Instead, the Special Counsel indicated that Congress must pass judgment on the matter because it is the only institution constitutionally-charged to hold the president to account.
- He wrote: "[T]he conclusion that Congress may apply the obstruction laws to the President's corrupt exercise of the powers of office accords with our constitutional system of checks and balances and the principle that no person is above the law."

EX-GOP FEDERAL PROSECUTORS EXPLAIN HOW TRUMP OBSTRUCTED JUSTICE IN VIRAL VIDEO: 'ABSOLUTE DISREGARD FOR THE LAW'

BY CHRISTINA ZHAO ON 6/1/19 AT 6:56 PM EDT

Photo: iStockphoto.com

SHARE

[U.S.](#) [AMERICAN POLITICS](#) [DONALD TRUMP](#) [PRESIDENT DONALD TRUMP](#) [GOP](#)

A group of former Republican-appointed federal prosecutors this week explained why President Donald Trump would have been indicted for obstructing special counsel Robert Mueller's Russia investigation if he were anyone but the president in a new viral video.

The [video](#) — released by Republicans for the Rule of Law (RRL), a conservative group whose stated purpose is “defending the institutions of our republic,” in partnership with Protect Democracy — features three ex-GOP prosecutors: Donald Ayer, deputy attorney general under former President George H.W. Bush, Paul Rosenzweig, deputy assistant secretary of Homeland Security under former President George W. Bush and Jeffrey Harris, deputy associate attorney general for former President Ronald Reagan.

The trio starts by describing how Attorney General William Barr misrepresented Mueller's findings in his four-page summary, which was released roughly a month before the special counsel's report was made public. “When I finally had the opportunity to read the Mueller report itself, I realized that the Barr summary was not a fair and accurate summary of what the Mueller report contained,” Rosenzweig said. “In the Mueller report, there is a damning case of obstruction of justice by the president. The second volume identifies 10 or 11 instances in which the special counsel examine the question of obstruction of justice.”

"As a former prosecutor, I did not think that it was even a close prosecutory call as to whether the president obstructed justice," Harris added.

The group notes that Trump began interfering in the Russia investigation immediately after taking office.

"First thing he does is he tries to influence the [former] head of the FBI James Comey in asking him to go easy on Michael Flynn and when that doesn't work out, he fires James Comey," one of the prosecutors said in the video. "The worst obstruction of all was the president actively being involved to affect the testimony and cooperation of critical witnesses, being Paul Manafort, Michael Flynn and Michael Cohen."

Ayer, Rosenzweig and Harris then condemned Republicans for enabling Trump's behavior and called for GOP members to speak out for the rule of law. "One of the most disturbing things to me is the conduct of Republicans in the Senate and the House," Ayer said, as an image of Senate Majority Leader Mitch McConnell appears in the clip. "These are actually smart people, they know there is a damning case in the Mueller report of obstruction of justice by the president and they are acting like there's not. And that's just flatly dishonest."

The clip has been viewed more than 200,000 times since it was uploaded on Thursday.

Earlier this month, the three former prosecutors joined nearly 1,000 others in signing a statement which said they all believed that Trump's conduct should have resulted in multiple felony charges for obstruction of justice if it were done by anyone other than the president.

Chris Truax, a spokesperson and legal adviser for RRL, told *Newsweek* that "these veterans of the Reagan and Bush Administrations are reminding us that the law applies the same to everyone — even the president. Republicans and all Americans need to listen."

Loading...

Justin Vail, an attorney at Protect Democracy, said the three former prosecutors demonstrated in the video that “the rule of law must take precedence over any political concerns.”

“Protect Democracy strongly believes that Americans deserve to hear from the men and women who spent their careers weighing evidence and making decisions about whether it was sufficient to justify prosecution,” Vail said in a statement emailed to *Newsweek*. “We were approached by many Justice Department alumni who felt the same way, and so we agreed to send out a call for signatories to the statement they drafted. We are happy to help amplify their voices through efforts like this video.”

The New York Times

Mueller Zeros In on Story Put Together About Trump Tower Meeting

By Jo Becker, Mark Mazzetti, Matt Apuzzo and Maggie Haberman

Jan. 31, 2018

WASHINGTON — Aboard Air Force One on a flight home from Europe last July, President Trump and his advisers raced to cobble together a news release about a mysterious meeting at Trump Tower the previous summer between Russians and top Trump campaign officials. Rather than acknowledge the meeting's intended purpose — to obtain political dirt about Hillary Clinton from the Russian government — the statement instead described the meeting as being about an obscure Russian adoption policy.

The statement, released in response to questions from The New York Times about the meeting, has become a focus of the inquiry by Robert S. Mueller III, the special counsel investigating Russian interference in the 2016 election. Prosecutors working for Mr. Mueller in recent months have questioned numerous White House officials about how the release came together — and about how directly Mr. Trump oversaw the process. Mr. Mueller's team recently notified Mr. Trump's lawyers that the Air Force One statement is one of about a dozen subjects that prosecutors want to discuss in a face-to-face interview of Mr. Trump that is still being negotiated.

The revelation of the meeting was striking: It placed the president's son and his top campaign officials in direct contact with a Russian lawyer who promised damaging information on Mrs. Clinton, and an email to the president's son emerged saying that the information was part of Russia's effort to help the Trump campaign. The special counsel is investigating how those revelations were handled in real time in part because the president was involved in his administration's response.

Some lawyers and witnesses who have sat in or been briefed on the interviews have puzzled over Mr. Mueller's interest in the episode. Lying to federal investigators is a crime; lying to the news media is not. For that reason, some of Mr. Trump's advisers argue that Mr. Mueller has no grounds to ask the president about the statement and say he should refuse to discuss it.

What is already clear is that, as Mr. Trump's aides and family members tried over 48 hours to manage one of the most consequential crises of the young administration, the situation quickly degenerated into something of a circular firing squad. They protected their own

6/19/2019

Mueller Zeros In on Story Put Together About Trump Tower Meeting - The New York Times

interests, shifted blame and potentially left themselves — and the president — legally vulnerable.

The latest witness to be called for an interview about the episode was Mark Corallo, who served as a spokesman for Mr. Trump's legal team before resigning in July. Mr. Corallo received an interview request last week from the special counsel and has agreed to the interview, according to three people with knowledge of the request.

Mr. Corallo is planning to tell Mr. Mueller about a previously undisclosed conference call with Mr. Trump and Hope Hicks, the White House communications director, according to the three people. Mr. Corallo planned to tell investigators that Ms. Hicks said during the call that emails written by Donald Trump Jr. before the Trump Tower meeting — in which the younger Mr. Trump said he was eager to receive political dirt about Mrs. Clinton from the Russians — “will never get out.” That left Mr. Corallo with concerns that Ms. Hicks could be contemplating obstructing justice, the people said.

In a statement on Wednesday, a lawyer for Ms. Hicks strongly denied Mr. Corallo's allegations.

“As most reporters know, it's not my practice to comment in response to questions from the media. But this warrants a response,” said the lawyer, Robert P. Trout. “She never said that. And the idea that Hope Hicks ever suggested that emails or other documents would be concealed or destroyed is completely false.”

Competing Statements

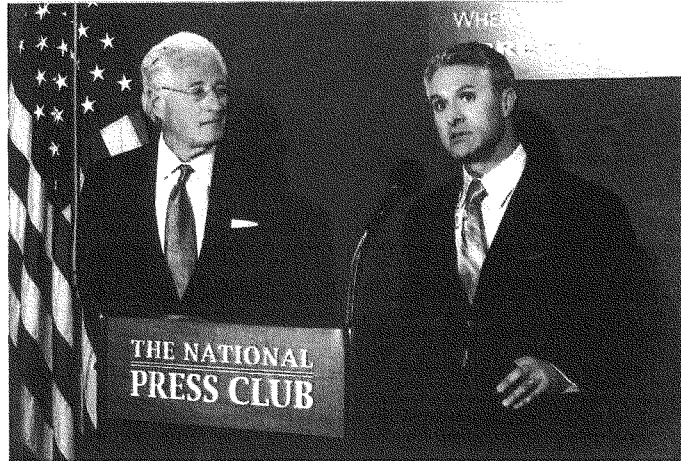
Early on the morning of Friday, July 7, reporters from The Times approached White House officials and lawyers with questions about the Trump Tower meeting a year earlier. The reporters said The Times was preparing a story revealing that the meeting with the Russians had taken place, and asked the White House for more information about its purpose.

The president and senior White House officials were in Germany for the G-20 summit meeting and asked for more time to respond, citing the time difference and conflicting schedules. They scheduled a conference call with the reporters for early the next morning.

The call never happened, so the Times reporters submitted a list of 14 questions about the meeting to the White House and to the lawyers of the Trump campaign aides who attended the meeting. Among the questions: What was discussed, and what did the attendees think was going to be discussed?

6/19/2019

Mueller Zeroes In on Story Put Together About Trump Tower Meeting - The New York Times



Marc E. Kasowitz, left, the president's personal lawyer, and Mark Corallo, a spokesman for Mr. Trump's legal team, during a news conference last June.
Justin T. Gellerson for The New York Times

President Trump's aides received the list midflight on Air Force One on the way back from the summit meeting and began writing a response. In the plane's front cabin, Mr. Trump huddled with Ms. Hicks. During the meeting, according to people familiar with the episode, Ms. Hicks was sending frequent text messages to Donald Trump Jr., who was in New York. Alan Garten, a lawyer for the younger Mr. Trump who was also in New York, was also messaging with White House advisers aboard the plane.

Marc E. Kasowitz, the president's personal lawyer, was not included in the discussion.

The president supervised the writing of the statement, according to three people familiar with the episode, with input from other White House aides. A fierce debate erupted over how much information the news release should include. Mr. Trump was insistent about including language that the meeting was about Russian adoptions, according to two people with knowledge of the discussion.

By early afternoon, The Times received a separate statement, from Jamie S. Gorelick, a lawyer at the time for Jared Kushner, the president's son-in-law and senior adviser. The statement said little about the meeting, except that Mr. Kushner had "briefly attended at the request of his brother-in-law Donald Trump Jr."

8/19/2019

Mueller Zeros In on Story Put Together About Trump Tower Meeting - The New York Times

It left nearly all of the questions unanswered — and seemed to put the onus on Donald Trump Jr. to answer them. Nearly four hours later, the statement that had been cobbled together aboard Air Force One was sent to The Times. The statement was in Donald Trump Jr.'s name and was issued by Mr. Garten.

“It was a short introductory meeting,” it read. “I asked Jared and Paul to stop by. We primarily discussed a program about the adoption of Russian children that was active and popular with American families years ago and was since ended by the Russian government, but it was not a campaign issue at that time and there was no follow up.”

According to four people familiar with the discussions, Donald Trump Jr. had insisted that the word “primarily” be included in the statement.

The Times published its story about the Trump Tower meeting, with the statement, at 5 p.m. Not long after, the news site Circa published a different version, saying that the June 2016 meeting had been set up “to discuss a Russian policy.” Mr. Corallo, the spokesman for the legal team, said in that story that the Russians had “misrepresented who they were and who they worked for.” He, along with the rest of the president's legal team, was not consulted about Donald Trump Jr.'s statement before it was released.

He suggested that the meeting might have been set up by Democratic operatives, connecting one of the Russians in the meeting, Natalia V. Veselnitskaya, to the research firm that helped produce an unverified dossier that contained salacious allegations about Mr. Trump's connections to Russia.

White House Unease

The dueling statements, both of which withheld the true purpose of the meeting, created tension at the White House.

Accusations began flying that the botched response made an already bad situation worse. Ms. Hicks called Mr. Corallo, according to three people who relayed his version of events to The Times. She accused him of trafficking in conspiracy theories and drawing more attention to the story.

The conference call with the president, Mr. Corallo and Ms. Hicks took place the next morning, and what transpired on the call is a matter of dispute.

In Mr. Corallo's account — which he provided contemporaneously to three colleagues who later gave it to The Times — he told both Mr. Trump and Ms. Hicks that the statement drafted aboard Air Force One would backfire because documents would eventually surface

6/19/2019

Mueller Zeros In on Story Put Together About Trump Tower Meeting - The New York Times

showing that the meeting had been set up for the Trump campaign to get political dirt about Mrs. Clinton from the Russians.

Donald Trump Jr. said in an email in 2016 that he was eager to receive damaging information about Hillary Clinton. Tom Brenner/The New York Times

According to his account, Ms. Hicks responded that the emails “will never get out” because only a few people had access to them. Mr. Corallo, who worked as a Justice Department spokesman during the George W. Bush administration, told colleagues he was alarmed not only by what Ms. Hicks had said — either she was being naïve or was suggesting that the emails could be withheld from investigators — but also that she had said it in front of the president without a lawyer on the phone and that the conversation could not be protected by attorney-client privilege.

Contacted on Wednesday, Mr. Corallo said he did not dispute any of the account shared by his colleagues but declined to elaborate further.

Even if Mr. Corallo is correct and Ms. Hicks was hinting at an attempt to conceal the emails, doing so would have been nearly impossible. Congress had requested records from Paul Manafort, Mr. Trump’s campaign chairman; Mr. Kushner; and other Trump campaign

6/19/2019

Mueller Zeros In on Story Put Together About Trump Tower Meeting - The New York Times

officials about meetings with Russians. And lawyers had already copied and stamped the emails for delivery to Capitol Hill.

When the president began questioning Mr. Corallo about the nature of the documents, Mr. Corallo cut off the conversation and urged the president to continue the discussion with his lawyers.

Mr. Corallo told colleagues that he immediately notified the legal team of the conversation and jotted down notes to memorialize it. He also shared his concerns with Stephen K. Bannon, then the president's chief strategist.

Mr. Corallo left the job shortly after the phone call. The recent book "Fire and Fury: Inside the Trump White House," by Michael Wolff, which was met with angry denunciations by the president, linked Mr. Corallo's resignation to concerns he had about obstruction, but provided no details.

In the days that followed the Air Force One statement, The Times revealed that the true purpose of the June 2016 meeting was to obtain damaging information about Mrs. Clinton, which was being offered as "part of Russia and its government's support" for Mr. Trump. The younger Mr. Trump ultimately released the emails after being told The Times was about to publish them.

Within weeks, Mr. Mueller sent out grand jury subpoenas for documents and interviews about the June 2016 meeting.

A version of this article appears in print on Jan. 31, 2018, on Page A1 of the New York edition with the headline: Mueller Zeros In on a Trump Tower Cover Story

[READ 1585 COMMENTS](#)

8/18/2019

Hope Hicks Acknowledges She Sometimes Tells White Lies for Trump - The New York Times

The New York Times***Hope Hicks Acknowledges She Sometimes Tells White Lies for Trump*****By Nicholas Fandos**

Feb. 27, 2018

Update: Hope Hicks announced on Wednesday that she was resigning as White House communications director. For the latest updates and further coverage, read here.

WASHINGTON — Hope Hicks, the White House communications director, told House investigators on Tuesday that her work for President Trump, who has a reputation for exaggerations and outright falsehoods, had occasionally required her to tell white lies.

But after extended consultation with her lawyers, she insisted that she had not lied about matters material to the investigations into Russia's interference in the 2016 presidential election and possible links to Trump associates, according to three people familiar with her testimony.

The exchange came during more than eight hours of private testimony before the House Intelligence Committee. Ms. Hicks declined to answer similar questions about other figures from the Trump campaign or the White House.

She also pointedly and repeatedly declined to answer questions about the presidential transition or her time in the White House, lawmakers who sat in on the testimony said, telling investigators that she had been asked by the White House to discuss only her time on the campaign. They added that she did not formally invoke executive privilege.

A lawyer for Ms. Hicks declined to comment.

The committee, which has been investigating Russia's meddling for nearly a year, has increasingly found itself butting up against the White House over similar claims by witnesses.

When Stephen K. Bannon, who served as Mr. Trump's chief strategist until he was forced out in August, similarly refused to testify about his work for the presidential transition team and the White House, Republicans on the committee quickly subpoenaed him. Mr. Bannon continued to refuse to talk about those subjects, and lawmakers are weighing whether to initiate contempt proceedings.

There was no indication that Republicans would subpoena Ms. Hicks.

<https://www.nytimes.com/2018/02/27/us/politics/hope-hicks-house-intelligence-committee-testimony.html?action=click&module=RelatedCoverage&pgt...> 1/2

6/18/2018

Hope Hicks Acknowledges She Sometimes Tells White Lies for Trump - The New York Times

Representative Adam B. Schiff of California, the top Democrat on the committee, said Republicans were applying a double standard to Mr. Bannon — who has been exiled from Mr. Trump's circles after disparaging the Trump children in a book by the author Michael Wolff — and all other witnesses. He urged Republicans who control the committee to subpoena Ms. Hicks.

“That’s an overly broad claim of privilege that I don’t think any court of law would sustain. And I think the White House knows that,” Mr. Schiff said. “This is not executive privilege, it is executive stonewalling.”

Members of the committee said that under pressure from lawmakers, Ms. Hicks and her lawyers had consulted the White House during the interview and determined that she could answer limited questions about her work on the transition.

Still, Mr. Schiff said that important questions had been left unaddressed.

A fixture of Mr. Trump’s inner circle throughout the campaign and in the White House, Ms. Hicks is viewed as a valuable witness by investigators. She was involved in the firing of James B. Comey as F.B.I. director in May and the drafting of a statement in July in response to questions about a 2016 meeting at Trump Tower between Russians and top Trump campaign officials. The statement and its drafting have attracted the interest of the special counsel, Robert S. Mueller III.

Ms. Hicks refused to answer questions about both, lawmakers said.

Investigators working for Mr. Mueller interviewed Ms. Hicks over two days in December. She has also testified before the Senate Intelligence Committee.

The interview was the committee’s first in more than a month. Democrats and Republicans have spent the better part of that time bitterly wrangling over a Republican memo accusing the F.B.I. and the Justice Department of abusing their powers to spy on a former Trump campaign aide, Carter Page.

Get politics and Washington news updates via Facebook, Twitter and the Morning Briefing newsletter.

A version of this article appears in print on Feb. 28, 2018, on Page A16 of the New York edition with the headline: In Testimony, Trump Aide Says She’s Lied on the Job



Sheila Jackson Lee

116TH CONGRESS
1ST SESSION

H. R. 2353

To amend the Federal Election Campaign Act of 1971 to require candidates for election for public office to refuse offers of assistance from foreign powers and to report such offers to the Federal Bureau of Investigation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2019

Ms. JACKSON LEE (for herself and Mr. JOHNSON of Georgia) introduced the following bill; which was referred to the Committee on House Administration

A BILL

To amend the Federal Election Campaign Act of 1971 to require candidates for election for public office to refuse offers of assistance from foreign powers and to report such offers to the Federal Bureau of Investigation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Duty to Refuse and
5 Report Foreign Interference in American Elections Act of
6 2019".

1 **SEC. 2. REQUIRING CANDIDATES TO REFUSE OFFERS OF**
2 **ASSISTANCE FROM FOREIGN POWERS AND**
3 **TO REPORT OFFERS TO FBI.**

4 (a) REQUIREMENTS DESCRIBED.—Section 319 of the
5 Federal Election Campaign Act of 1971 (52 U.S.C.
6 30121) is amended by adding at the end the following new
7 subsection:

8 “(c) REQUIREMENTS FOR CANDIDATES RECEIVING
9 OFFERS OF ASSISTANCE FROM FOREIGN POWERS.—

10 “(1) DUTY TO REFUSE ASSISTANCE AND RE-
11 PORT OFFER TO FBI.—If a candidate or any indi-
12 vidual affiliated with a campaign of a candidate
13 knowingly receives an offer for assistance with the
14 campaign from a source the candidate or individual
15 knows is a foreign power or an agent of a foreign
16 power, the candidate or individual shall—

17 “(A) refuse the offer for such assistance;
18 and

19 “(B) notify the Federal Bureau of Inves-
20 tigation of the offer not later than 72 hours
21 after receiving the offer.

22 “(2) CERTIFICATION REQUIREMENT FOR FED-
23 ERAL CANDIDATES.—Not later than 10 days after
24 the expiration of each calendar quarter, each author-
25 ized committee of a candidate for election for Fed-
26 eral office shall file a report with the Commission

1 certifying that the candidate and the individuals af-
2 filiated with the candidate's campaign are in compli-
3 ance with the requirements of paragraph (1).

4 "(3) PENALTY.—Whoever fails to comply with
5 subsection (a) shall be fined not more than
6 \$250,000, or imprisoned not more than 5 years, or
7 both.

8 "(4) DEFINITIONS.—In this section, the fol-
9 lowing definitions apply:

10 "(A) The term 'agent of a foreign power'
11 and the term 'foreign power' each has the
12 meaning given such term in section 101 of the
13 Foreign Intelligence Surveillance Act of 1978
14 (50 U.S.C. 1801).

15 "(B) The term 'candidate' means an indi-
16 vidual who seeks nomination for, or election to,
17 any Federal, State, or local public office.

18 "(C) The term 'individual affiliated with a
19 campaign' means, with respect to a candidate,
20 an employee of any organization legally author-
21 ized under Federal, State, or local law to sup-
22 port the candidate's campaign for nomination
23 for, or election to, any Federal, State, or local
24 public office, as well as any independent con-
25 tractor of such an organization and any indi-

1 vidual who performs services for the organiza-
2 tion on an unpaid basis (including an intern or
3 volunteer).”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall take effect 90 days after the date of
6 the enactment of this Act.

○